



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.3190 OF 2014**

BEENA AND ORS.

...APPELLANT(S)

VERSUS

CHARAN DAS (D) THR. LRS. & ORS.

...RESPONDENT(S)

J U D G M E N T

PANKAJ MITHAL, J.

1. What was once a dispute between landlord and tenant for the eviction of the tenant from the premises in dispute ended into a consent order way back in the year 1979. Unfortunately, the said consent order gave rise to a bitter civil dispute between the parties, which has now landed in this Court after the suit was dismissed by the court of first instance which judgment and order was upheld by the First Appellate Court. However, the decree so passed was reversed by the High Court in Second Appeal. This is how the parties are now before this Court.
2. Late Bhawani Parshad alias Bhagati Parshad (now represented by his legal representatives) was the landlord

and late Charan Dass (now represented by his legal representatives) was a tenant in the premises consisting of a house of two rooms/godown comprised in Khasra No.1383 situate in Mohalla Charpat, Church Road, Chamba Town.

- 3.** The landlord applied under Section 14 of the Himachal Pradesh Urban Rent Control Act, 1971¹ for the eviction of the tenant, late Charan Dass, on the ground that the house in question was in a dilapidated condition which required demolition and reconstruction. The suit was initially contested by the tenant wherein issues were framed, out of which two issues were relevant and important; as to whether the house in dispute is in a dilapidated condition, unfit for habitation and requires demolition and reconstruction; and whether the landlord requires the said house for his *bona fide* personal use.
- 3A.** In the said suit on one of the dates fixed i.e. 05.09.1979, the landlord appeared in court and stated that there has been a settlement between the parties and the tenant has accepted to deposit a sum of Rs.12,500/- before

¹ hereinafter referred to as "the Act"

15.12.1979 in the court. In the event the amount is so deposited on or before the aforesaid date, the application of the landlord shall be deemed to be dismissed; otherwise, on failing to do so, the landlord's application would be deemed to be allowed. The tenant also appeared before the court on the said date and accepted the settlement. He stated that in case he fails to deposit the aforesaid amount on or before the date fixed, he shall vacate the house/godown, and in the event of him depositing the same, the application of the landlord shall be deemed to be dismissed.

- 4.** In terms of the aforesaid settlement, as per the statement of both the landlord and tenant, the Court of Rent Controller, on the very same day, i.e. 05.09.1979 passed an order allowing the application of the landlord conditionally; that if the tenant fails to deposit the aforesaid sum of Rs.12,500/- in court in the name of the landlord on or before 15.12.1979, the application would be deemed to be allowed, and the tenant would deliver vacant possession of the house immediately, otherwise, if the tenant deposits the amount within the stipulated

period, the application of the landlord would be deemed to be dismissed.

- 5.** The tenant, in pursuance of the above consent order dated 05.09.1979, deposited a sum of Rs.12,500/- in the Chamba Treasury on 06.09.1979, i.e., on the very next day. Thus, the application of the landlord under Section 14 of the Act came to be dismissed in terms of the consent order.
- 6.** The landlord, however, challenged the aforesaid order by means of Civil Revision No.168/79 before the High Court which was dismissed on 07.12.1984, observing that in case the landlord was aggrieved by the dismissal of his application under Section 14 of the Act, the appropriate remedy available to him was to file an appeal under Section 21(1)(b) of the Act.
- 7.** It has come on record that the Special Leave Petition of the landlord against the above order of the High Court also stood dismissed, though, nothing in detail to that effect has been brought on record. In short, the consent order dated 05.09.1979 between the landlord and the tenant became final and conclusive.

8. Despite the fact that there was no eviction order against the tenant or any positive direction in his favour, he moved an application for the execution of the consent order, which came to be allowed by the Rent Controller on 28.08.1989, wherein it was directed that the name of the tenant be entered as owner in possession of the disputed premises by making corrections in the relevant records. Aggrieved by the aforesaid order of the executing court, the landlord preferred a civil revision, contending that there could have been no execution of the consent order at the behest of the tenant, as his application for eviction of the tenant stood dismissed and that the executing court could not have ordered for recording the name of the tenant as owner in possession of the disputed premises. The said civil revision was allowed, holding that in the meantime, the building had collapsed and nothing remained on the spot which could be recorded in the name of the tenant. The court, therefore, in the end held that the remedy of the tenant was not by way of an execution petition and the order of the Rent Controller dated 28.08.1989 was not sustainable in law.

- 9.** After having lost in the execution proceedings in getting his name recorded as the owner in possession of the disputed premises on the basis of the consent order dated 05.09.1979, the tenant filed a suit for permanent mandatory injunction, for possession and recovery of Rs.2,000/- arraying the landlord as the defendant. The said Civil Suit No.3 of 1990 was dismissed with cost by the court of first instance vide judgment and order dated 16.07.1994. The appeal of the tenant also met with the same fate. However, in Second Appeal before the High Court, the judgment, order and decree passed by the court of first instance as affirmed by the First Appellate Court was reversed and the suit was decreed holding that under the consent order, the tenant had become the owner of the suit premises and since he became the owner, and had been dispossessed by the landlord, he was entitled to a decree of possession. Accordingly, the suit was decreed in terms of the prayer made by the tenant.
- 10.** It may be pertinent to note that the building existing on the tenanted premises was alleged to be in a dilapidated

condition when the application under Section 14 of the Act was filed by the landlord in the year 1977 and that it had collapsed after the consent order was passed during the pendency of the revision arising from the order of the executing court. It is admitted to the parties that after the collapse of the building and its vacation by the tenant, altogether a new building has been constructed on the premises in question by the landlord.

- 11.** We have heard Shri Rajesh Gupta, learned counsel for the appellants-landlord and Shri Rajesh Srivastava, learned counsel for the respondents-tenants.
- 12.** On the submission of the counsel for the parties, the moot question which arises for our consideration is as to whether under the consent order dated 05.09.1979 passed on an application under Section 14 of the Act moved by the landlord, the tenant can claim himself to be the owner of the property as he has deposited the stipulated amount of Rs.12,500/-.
- 13.** The answer to the above issue depends upon the interpretation of the consent order *vis-à-vis* the

statements of the landlord and tenant recorded by the Rent Controller in passing the aforesaid consent order.

14. There is no dispute to the fact that there existed a relationship of landlord and tenant between the parties and that the landlord had filed an application for the eviction of the tenant under Section 14 of the Act on the ground of dilapidated condition and on *bona fide* need.
15. In the said proceedings on 05.09.1979, the statement of the landlord was recorded which is reproduced hereinbelow:

“Statement of Shri Bhagati Parshad S/o Sh. Duni Chand Resident of Chamba - applicant with counsel on Solemn affirmation.

Stated that I have settled with respondent. As per the settlement respondent will pay me Rs.12,500/- before 15.12.1979 as against the value of Godown and house in dispute. The manner of making such payment shall only be one and that is the amount shall have to be deposited in Court in my name.

As per this settlement, my application shall be deemed to be allowed in-case the respondent fails to deposit the said amount on or before 15.12.1979; should the said amount be so deposited my application shall be deemed to be dismissed.”

16. The said statement and the settlement were accepted by the tenant on the same date who got his statement recorded as under:

“Statement of Shri Charan Dass son of Shri Hans Ram - Respondent with counsel on Solemn Affirmation.

Stated that I the above statement of applicant has been heard and, accepted. In case I fail to deposit Rs.12,500/- before 15.12.1979 I shall vacate the Godown and house in dispute, and incase I deposit within time, applicant's application shall be deemed to be dismissed.”

17. A plain reading of the aforesaid two statements clearly demonstrates that under the settlement, the tenant had agreed to pay a sum of Rs.12,500/-, to be deposited in court in the name of the landlord on or before 15.12.1979, treating it to be the value of the house/godown. It was further agreed that if the amount is deposited, the application of the landlord for eviction would stand dismissed, and in case the tenant fails to make the deposit, as agreed, the application of the landlord for eviction would stand allowed. This is also clearly implicit from the statement of the tenant who accepted the settlement and stated that in case he fails

to deposit the stipulated amount on or before 15.12.1979, he shall vacate the house/godown and in case he deposits the sum within time, the application of the landlord shall be deemed to be dismissed.

- 18.** The aforesaid two statements nowhere provide that the amount liable to be deposited by the tenant was a sale consideration of the property, though, it may have been stated that it is equivalent to the value of the property or that the tenant, on deposit of such an amount, he would become the owner of the property. Therefore, on the plain reading of the above statements, it cannot be said by any stretch of imagination that there was any settlement or transfer of the property on the above sale consideration. It may also be noted that there is no document witnessing the transfer of the property in pursuance of the above statements or the consent order.
- 19.** The Rent Controller in passing the consent order on 05.09.1979 recorded that the dispute between the landlord and tenant had been compromised. According to the terms of the compromise contained in the statements of the parties, on the payment of Rs.12,500/- by the

tenant as the price of the house, he was to become the owner in possession. This narration of fact that the tenant would become the owner in possession in the order of the Rent Controller is obviously against the record, i.e., the statement of the parties, wherein it has nowhere been stipulated that the tenant, on deposit would become the owner of the property. However, in the end, the Rent Controller himself records that on the price of Rs.12,500/- being deposited on or before the 15.12.1979, the application of the landlord would be deemed to have been dismissed and on failure to deposit, it shall deem to have been allowed. It means the aforesaid consent order was only with regard to dismissing and allowing of the application of the landlord in the eventuality of depositing of the amount and non-depositing of the amount by the tenant. The settlement recorded in terms of the statements of the parties and even the consent order does not in any way provide or confer right of ownership upon the tenant, nor it could have been done in a proceeding for eviction of the tenant. No document, much less a registered instrument, was

executed between the parties transferring the title of the suit premises. In its absence obviously no transfer of title can pass from one party to another. In such a proceeding, the only option available to the Rent Controller was either to order eviction or to dismiss the application for eviction as has been done by him.

20. In view of the aforesaid facts and circumstances, we are crystal clear in our mind that the High Court had patently erred in interpreting the consent order and in reversing the well-considered judgments and orders of the court of first instance and the First Appellate Court, dismissing the suit of the tenant.

21. Accordingly, the judgment and order of the High Court dated 20.04.2011 is set aside and the appeal is allowed with costs.

..... **J.**
(PANKAJ MITHAL)

..... **J.**
(R. MAHADEVAN)

NEW DELHI;
SEPTEMBER 11, 2024.