SRI SWAMI KRISHNANAND GOVINDANAND A

v.

M/S. M.D. OSWAL HOSIERY (REGD.)

FEBRUARY 20, 2002

[SYED SHAH MOHAMMED QUADRI AND B
DORAISWAMY RAJU, JJ.]

Delhi Rent Control Act, 1958

S.22(d)—Landlord claiming itself to be a public institution—Seeking C
eviction of tenant on ground of **bona fide** *requirement—Claim that institute needed premises for furtherance of its activities—Tenant denying in written statement the status of landlord as a public institution as also that it needed premises* **bona fide** *for furtherance of its activities—But Advocate appearing for tenant conceded before Additional Rent Controller, both the facts disputed* D
by tenant in his written statement—Additional Rent Controller recorded the statement of the Advocate and allowed eviction petition—Rejecting the contention of landlord that statement made by counsel for tenant across the Bar is an admission and the Rent Controller recorded his satisfaction on the basis thereof, the Court—Held, whether the appellant is an institution within the meaning of Section 22 of the Act and whether it required **bonafide** *the* E
premises for furtherance of its activities, are questions touching the jurisdiction of the Additional Rent Controller—He can record his satisfaction only when he holds on these questions in favour of the appellant—For so holding there must be material on record to support his satisfaction otherwise the satisfaction not based on any material or based on irrelevant material, would be vitiated F
and any order passed on such a satisfaction will be without jurisdiction—There can be no doubt that admission of a party is a relevant material—But on the facts of this case, the statement of the counsel of the tenant can not be accepted as an admission so as to bind the tenant—Excluding that statement from consideration there was no material before the Additional Rent Controller to record his satisfaction within the meaning of Clause (d) of Section 22 of the G
Act—Order of eviction was thus without jurisdiction—The statement of counsel for tenant can also not be treated as a compromise—Compromise like a contract postulates consensus between two parties—A statement of a counsel conceding the grounds of eviction and seeking some time for the respondent to vacate the premises, can not be termed a compromise—Evidence Act, 1972—S.18— H

A *Compromise.*

Evidence Act, 1972

S.18—Admission by party's counsel—Counsel for the tenant conceding before the Court during arguments the facts denied by tenant in written B *statement—Held, in the facts of the case, statement of the counsel of tenant cannot be accepted as an admission so as to bind the tenant.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5062 of 1997.

C From the Judgment and Order dated 2.12.81 of the Delhi High Court in S.A. No. 275 of 1980.

Jaspal Singh and Shiv Prakash Pandey for the Appellant.

Rishi for the Respondent.

D

The following Order of the Court was delivered :

This is an appeal from the judgment and order of the High Court of Delhi allowing the respondent's Second Appeal Order No. 275 of 1980 on December 2, 1981.

E

The appellant-landlord of the suit premises is a registered society under the Societies Registration Act. It filed application against the respondent-tenant for his eviction from the suit premises under Clause (d) of Section 22 of the Delhi Rent Control Act, 1958 (for short "the Act") on the ground that the premises are required *bonafide* for furtherance of its activities. The F respondent filed written statement denying both that the appellant is an institution within the meaning of that provision and that it required the premises b*onafide* for furtherance of its activities. It appears that when the case was posted for trial, the learned counsel appearing for the respondent conceded the facts disputed by the respondent in his written statement before the Court. G That statement of the advocate was recorded by the Addl. Rent Controller thus : "The respondent's learned counsel has admitted the ground of eviction and also the fact that appellant is a public charitable institution and for that purpose it required the premises". On that basis the eviction application filed by the appellant was allowed on 24th March, 1973. Within a week thereafter the respondent filed a review petition which was dismissed. He then filed a H writ petition challenging the validity of the said order of eviction but that was

dismissed as withdrawn on July 22, 1974. Thereafter, the respondent filed an appeal against the said order of eviction before the Rent Control Tribunal but it was also dismissed on September 5, 1977. Be that as it may, when the appellant filed a petition for execution of order of eviction, the respondent raised objections both under Section 40 of the Act as well as under Section 47 of the Code of Civil Procedure. By separate orders both the objection petitions were dismissed on April 5, 1980. That order was challenged by the respondent unsuccessfully before the Rent Control Tribunal. Dis-satisfied with order of the Tribunal dated May 16, 1980, dismissing the appeal, the respondent filed the aforementioned second appeal which was allowed on December 2, 1981. It is against that order of the High Court that the present appeal is filed by special leave.

Mr. Jaspal Singh, learned senior counsel, appearing for the appellant, has vehemently contended that statement made by the learned counsel of the respondent across the Bar is indeed an admission of the party and, therefore, the Addl. Rent Controller recorded his satisfaction on the basis of the admission; the order of the Addl. Rent Controller cannot there by be treated as being without jurisdiction. We are afraid we cannot accede to the contention of the learned counsel. Whether the appellant is an institution within the meaning of Section 22 of the Act and whether it required *bonafide* the premises for furtherance of its activities, are questions touching the jurisdiction of the Addl. Rent Controller. He can record his satisfaction only when he holds on these questions in favour of the appellant. For so holding there must be material on record to support his satisfaction otherwise the satisfaction not based on any material or based on irrelevant material, would be vitiated and any order passed on such a satisfaction will be without jurisdiction. There can be no doubt that admission of a party is a relevant material. But can the statement made by the learned counsel of a party across the Bar be treated as admission of the party ? Having regard to the requirements of Section 18 of the Evidence Act, on the facts of this case, in our view, the aforementioned statement of the counsel of the respondent can not be accepted as an admission so as to bind the respondent. Excluding that statement from consideration there was thus no material before the Addl. Rent Controller to record his satisfaction within the meaning of Clause (d) of Section 22 of the Act. It follows that the order of eviction was without jurisdiction.

The learned counsel next contended that the statement of the learned counsel for the respondent should be treated as a compromise as the Court granted five years' time to the respondent for vacating the suit premises. In

A our view, this contention has to be rejected. The compromise like a contract postulates consensus between two parties. A statement of a counsel conceding the grounds of eviction and seeking some time for the respondent to vacate the premises, can not be termed a compromise.

In view of the above discussion, we do not find any reason to interfere
B with the order under challenge. The appeal is dismissed with costs.

R.P. Appeal dismissed.