

BHARAT DEEP SETHI

v.

SONIA TAKKAR

(Civil Appeal Nos.16809-16810 of 2017)

OCTOBER 12, 2017

**[R. BANUMATHI AND S. ABDUL NAZEER, JJ.]**

*Rent Control and Eviction – Suit for eviction by respondent-landlord – Application filed by appellant-tenant before Rent Controller seeking leave to defend, dismissed – Revision petition filed by tenant before High Court wherein vide interim orders it was directed to pay Rs.1,25,000/- p.m. w.e.f. 7<sup>th</sup> June, 2017 till the end of month of July, 2017 and continue to pay the said amount w.e.f. the month of August, 2017 – On appeal, held: Without going into the merits of the case, tenant is directed to pay Rs.40,000/- p.m. from the month of June, 2017, towards use and occupation – Arrears @ Rs.40,000/- p.m. from June 2017 shall be paid to the landlord within a period of four weeks after deduction of the amount already paid – The tenant shall continue to pay rent @ Rs.40,000/- – Impugned orders set aside – However, an opportunity should be afforded to the tenant to raise all the contentions/issues – Matter remitted back to High Court for considering the revision petition afresh – Till the matter is finally disposed of by the High Court, no coercive steps shall be taken by landlord.*

**Disposing of the appeals, the Court**

**HELD: 1. Without going into the merits of the rival contentions, the appellant-tenant is directed to pay an amount of Rs.40,000/- per month from the month of June, 2017, towards use and occupation and the same shall be directly paid to the respondent-landlord. The arrears at the rate of Rs.40,000/- per month from June, 2017 shall be paid to the landlord within a period of four weeks deducting the amount already paid by the tenant. The tenant shall continue to pay the rent at the rate of Rs. 40,000/- to the landlord. [Para 5] [533-D]**

**2. An opportunity should be afforded to the appellant-tenant to raise all the contentions/ issues. The matter is remitted back**

A to the High Court for consideration afresh. The High Court is requested to take up the main revision and dispose it of at an early date preferably within three months from the date of receipt of this order. The above order is passed without prejudice to the contentions of the both parties and all the contentions are left open. Till the matter is finally disposed of by the High Court, no coercive steps shall be taken by the landlord. [Para 6] [533-E-G]

B

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 16809-16810 of 2017.

C

From the Judgment and Order dated 21.07.2017 in CM No. 25602/2017 in RC. REV. No. 102/2017 and 25.07.2017 in CM No. 26153/2017 in RC. Rev. No. 102/2017 of the High Court of Delhi at New Delhi.

Rajiv K. Garg, Ashish Garg, Rajeev Kapoor, Harsh Nagar, T. L. Garg, Advs. for the Appellants.

D

Sudhir Mendiratta, Adv. for the Respondent.

The Judgment of the Court was delivered by

**R. BANUMATHI, J.** 1. Leave granted.

E

2. These appeals have been filed against the interim impugned orders dated 21<sup>st</sup> July, 2017 in C.M.No.25602/2017 and in RC.Review No.102/2017 dated 25<sup>th</sup> July, 2017, in and by which the High Court directed the appellant-tenant to pay an amount of Rs.1,25,000/- per month with effect from 7<sup>th</sup> June, 2017 till the end of the month July, 2017 and also continue to pay the said amount to the respondent-landlord with effect from the month of August, 2017.

F

G

3. Brief facts are that virtue of an unregistered lease deed executed on 13<sup>th</sup> March, 2000, the appellant-tenant is on rent in the suit property being Shop No.1, situated on the ground floor, 2/9 Roop Nagar, Delhi. The respondent-landlord claims to have purchased the property by virtue of a registered sale deed dated 07.02.2011 from the trust. The respondent-landlord has filed the suit for eviction before the learned Rent Controller for requirement of her son. The appellants had filed an application seeking leave to defend on the ground that there exists no landlord-tenant relationship. By the order dated 28.06.2016 the Rent Controller dismissed the application and declined leave to defend. Being aggrieved, the appellant-tenant approached the High Court. By the impugned order,

H

the High Court has directed the appellant-tenant to pay a sum of Rs.1.25 A  
Lacs per month.

4. We have heard learned counsel for the parties at length. It is pointed out by both parties that the High Court has only passed an interim order and has not heard the parties on merits and whether the appellant-tenant has got any triable issue. The appellant-tenant is stated to be in B  
occupation of 190 sq.ft on the ground floor of the suit property bearing No. 2/9 Roop Nagar, Delhi. According to the respondent-landlord, the tenanted premises is prime commercial property which would definitely fetch not less than Rs.2 lakhs per month. This is refuted by the counsel appearing for the appellant-tenant and submitted that the amount fixed at Rs.1.25 lacs is very much on the higher side and an opportunity ought C  
to have been given to the appellant-tenant to contest the matter on merits.

5. Without going into the merits of the rival contentions, we direct the appellant-tenant to pay an amount of Rs,40,000/- per month from the month of June, 2017, towards use and occupation and the same shall be directly paid to the respondent-landlord. The arrears at the rate of D  
Rs.40,000/- per month from June, 2017 shall be paid to the respondent-landlord within a period of four weeks deducting the amount already paid by the appellant-tenant to the respondent-landlord. The appellant-tenant shall continue to pay the rent at the rate of Rs.40,000/- to the respondent-landlord. E

6. We are of the view that an opportunity should be afforded to the appellant-tenant to raise all the contentions/ issues. The impugned orders dated 21.07.2017 and 25.07.2017 are set aside and the matter is remitted back to the High Court for consideration afresh. We request the High Court to take up the main revision and dispose it of at an early date preferably within three months from the date of receipt of this order. The above order is passed without prejudice to the contentions of F  
the both parties and all the contentions are left open. Till the matter is finally disposed of by the High Court, no coercive steps shall be taken by the respondent-landlord. G

7. The appeals are disposed of accordingly.