



2025:DHC:6791



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 11th August, 2025*+ CM(M) 638/2019 & CM APPL. 19195/2019
AVTAR SINGH

.....Petitioner

Through: Mr. Raj Sharma, Adv.

versus

ANOOP KUMAR AGGARWAL

.....Respondent

Through: Ms. Sana Ansari, Mr. I. Ahmed, Mr.
Tanveer, Advs.**CORAM:****HON'BLE MR. JUSTICE MANOJ JAIN****JUDGMENT (oral)****CM(M) 638/2019 & CM APPL. 19195/2019**

1. Sh. Anoop Kumar Aggarwal (respondent herein) filed an eviction petition seeking eviction of his tenant Sh. Avtar Singh (petitioner herein) under Section 14(1)(c) of the *Delhi Rent Control Act, 1958* ('Act').
2. The premises in question are first floor and second floor of property No. 2036, H.C. Sen Road (Fountain) Chandni Chowk. Delhi-6.
3. According to the landlord, the tenanted premises were let out to the father of respondent for *residential purpose* and after his demise, the respondent was using the premises as tenant. He averred that the premises were let out for residential purpose only but the respondent had been illegally using the same for other purpose as without any consent from the landlord, he had converted the premises into commercial and was using the same as a kitchen.



2025:DHC:6791



4. According to the landlord, the tenant was running a kitchen at a big scale and was cooking meals in large quantity and was selling cooked items from the tenanted premises.
5. It was in the abovesaid backdrop that the eviction suit was filed before the learned Controller seeking eviction for misuser.
6. During the pendency of the abovesaid eviction petition, landlord filed an application under Order XII Rule 6 of the *Code of Civil Procedure, 1908* ('CPC') seeking decree on the basis of admission made by the tenant. Such admission was allegedly made by him in one suit which he had filed against the same landlord, whereby, he was seeking injunction and learned Controller has allowed the abovesaid application moved by the landlord under Order XII Rule 6 CPC and has, resultantly, directed eviction under Section 14(1)(c) of DRC Act.
7. Such eviction order dated 07.12.2018 was challenged by filing an appeal before the learned Rent Control Tribunal and the learned Tribunal has also dismissed the appeal *vide* order dated 06.03.2019.
8. Such orders are under challenge.
9. According to learned counsel for the petitioner/tenant, the *admission decree* could not have been passed as there was never any specific and categorical admission. It is also contended that the abovesaid aspect could have been comprehensively and appropriately adjudicated only when there was a trial. According to him, the premises were let out for the commercial purpose right from the inception and such fact has not been considered either by the learned Controller or by the learned Tribunal.
10. Admittedly, the tenant had also filed a suit against his tenant whereby he was seeking permanent injunction against his such landlord. During the



2025:DHC:6791



trial of the abovesaid suit which was registered as *Sh. Avatar Singh vs. Sh. Anoop Kumar Aggarwal, Civil Suit No. 110/16 (126/2016)*, the tenant entered into witness box as PW-1 and in his cross-examination before the learned Civil Judge, he, categorically, admitted that he was using premises No. 2036 for commercial purposes. He, though, also volunteered that there was commercial activity going earlier also but fact remains that in his cross-examination and the deposition made on oath before the learned Civil Judge, he, in no uncertain terms, admitted that he was using premises no. 2036 for commercial purpose.

11. In his such cross-examination, he also claimed that the suit property was taken on rent in the year 1954 for residential purpose.

12. Thus, it is quite evident that his statement on oath before the learned Civil Judge is quite categorical. Not only does he admit that the tenancy was for a residential purpose, he also even admits that the tenanted premises was being used for commercial purpose.

13. Thus, there is clearly an admission with respect to the misuser of the tenanted premises.

14. The Court is conscious of the fact that the *admission decree* cannot be claimed as a matter of right and that admission decree ought to be passed whenever there is a clear, categorical and unequivocal admission. In the present case, the admission is not borne out from the pleadings as such. Rather it is emanating from the testimony recorded before a competent Court of jurisdiction. Such statement on oath made by the made by the tenant is having much more value than the one which is attached with what is, generally, averred in the pleadings.

15. Learned Tribunal, while dismissing the appeal, has also categorically



reiterated the abovesaid fact and came to the conclusion that it was clear that the appellant i.e. tenant was using the tenanted premises for a purpose other than it was let out and, therefore, the application of the landlord under Order XII Rule 6 CPC was rightly allowed.

16. The learned Tribunal also took note of the judgments relied upon by the tenant i.e. (i) *S.M. Asif v. Virender Kumar Bajaj AIR 2015 SC 3678*, (ii) *M/s Jeevan Diesels & Electricals Ltd. v. M/s Jasbir Singh Chadha (HUF) & Anr. AIR 2010 SC 1890*, (iii) *Inder Mohan Singh & Ors. v. Sube Singh 2014 SCC OnLine Del 2342*, (iv) *S.Shankar & Anr. v. Rama Panels Pvt. Ltd. & Ors. 2013 SCC OnLine Del 3238*, (v) *Durga Builders P. Ltd. v. Motor and General Finance Ltd. and Anr. 2012 SCC OnLine Del 1995*, and after careful perusal of the abovesaid judgments, reiterated that decree on admission could be passed if there was clear, unambiguous and unconditional admission on the part of maker and also noted that the admission was never a matter of right but a matter of discretion of the Court.

17. It, while observing that there was no debate with respect to the settled legal proposition, also held that these judgments rather do not come to the the rescue of the tenant as there was clear-cut admission on his part in the civil suit filed by him where he, categorically, admitted that the tenanted premises was, initially, let out for residential purpose and was being used for commercial activities.

18. This Court is conscious of the limited scope of interference in a petition filed under Article 227 of Constitution of India. Supervisory jurisdiction needs to be invoked when there is illegality or perversity in the findings recorded by the Courts below. Moreover, when there is a concurrent finding based on a specific admission made by the petitioner herein in a suit filed by



2025:DHC:6791



him only, this Court does not find any reason, much less a compelling one, to disturb such finding.

19. Resultantly, the present petition is hereby dismissed.
20. Pending application stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

AUGUST 11, 2025/neha