

RCA No. 1/18

19.05.2018

Present: Sh. MA Khan, counsel for appellant.

Sh. Asit Kumar Roy, counsel for respondent.

Heard.

The appeal is filed against the impugned order dated 06.12.17 whereby plaint is rejected on the ground that after termination of the tenancy appellant/plaintiff was bound under law to deliver the possession and has no authority to institute suit in respect of a right which does not vest in him. It is submitted in the appeal as well as in the plaint that rate of rent was Rs. 2500 p.m. and after sending of notice dated 6.10.17 seeking vacation of suit property respondent/defendant came on 11.10.17 at the suit property and threatened to vacate the property in 2 days. It is submitted that it is against the alleged threat of forcible dispossession that the suit was filed. During course of arguments, contention of protection u/s. 50 D.R.C. Act is also raised and was submitted that in the suit for possession already filed by respondent landlord Written statement has been filed wherein said contention has been raised. It is further submitted that despite termination of contractual tenancy because of protection under DRC Act, appellant continues to be statutory tenant and hence the suit cannot be said to be without any cause of action.

At this stage, permission was sought by the counsel for appellant for granting permission to withdraw the suit and dispose this appeal accordingly.

Counsel for respondent without prejudice to the right and contention of respondent has no objection to the same. Statement of respondent and of counsel for appellant recorded to this effect.

This appeal is accordingly disposed with permission to withdraw the suit. This suit for permanent injunction therefore shall be treated as dismissed as withdrawn for all intent and purposes. The impugned order stands modified accordingly.

File be consigned to record room. Copy of the order alongwith TCR be sent back to the Ld. Trial court. Dasti order prayed, be given to both the parties.

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(Vipin Kumar Rai)
ADJ-03(E):KKD:DELHI/19.05.2018