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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment reserved on: 05.12.2024*
Judgment pronounced on: 10.12.2024

\+ **RFA 785/2024 & CM APPL. 66532/2024 (stay)**

MOHD. IRFAN .....Appellant

Through: Mr. Mukesh Kumar and Ms. Nazia Khanam,Advocate.

versus

HASAN MIAN SINCE DECEASED THROUGH HIS LEGAL HEIRS & ANR .....Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T

GIRISH KATHPALIA, J.:

1. The appellant tenant has assailed the judgment and decree dated 09.08.2024 passed by the learned Additional District Judge, North-East Karkardooma Courts, Delhi, whereby suit filed by the present respondents was partly decreed under Order XII Rule 6 CPC for recovery of possession of the tenanted property in favour of the present respondents. Having heard the learned counsel for appellant and having examined the record, I do not find it a fit case to even issue notice of appeal.

2. Succinctly stated, circumstances leading to the present appeal are as follows.

2.1 Sh. Hasan Mian, the now deceased predecessor of the present respondents no.1 (a-f) (*also numbered as respondents no.1-6 in the memo of parties*) and the present respondent no.2 (*also numbered as respondent no.7 in the memo of parties*), being joint owners of the property filed a suit against the present appellant for recovery of possession of one hall having one store, one latrine and bathroom measuring 150 sq. yards (*hereinafter referred to as "the subject property"*) forming part of the larger property bearing no.C216, Gali No.7, Main Road Brahampuri, Delhi. The respondents in their plaint pleaded that they inducted the appellant in the subject property as a tenant by way of rent agreement dated 24.02.2016 for a period of three years at the monthly rent of Rs. 35,000/- for first year, Rs. 36,750/- for the next year and Rs. 38,588/- for the third year; that at the inception of tenancy, the appellant had paid them a sum of Rs. 1,00,000/- towards interest free refundable security deposit; that the appellant started running a gymnasium under the name and style M/s. Target Fitness Club from the subject property; that gradually, the appellant started defaulting in payment of rent and completely stopped paying rent with effect from February, 2018; that the appellant also stopped paying the electricity consumption charges with effect from June 2017; that on being demanded the outstanding amount, the appellant started threatening the respondents, as such the latter got issued legal notice dated 08.02.2019 to the appellant, thereby terminating the tenancy with effect from 28.02.2019; that since the

appellant opted to ignore the said legal notice, the respondents are entitled to recovery of possession of the subject property as well as the monetary reliefs towards arrears of rent and mesne profits.

2.2 The appellant filed written statement before the trial court, pleading that he was inducted as a tenant for commercial purposes in the subject property, which was in a rough condition and he had to incur expenses of Rs. 8,00,000/- on its renovation, so the rent fixed was Rs. 10,000/- per month, in addition to which he paid a sum of Rs. 5,00,000/- in cash to the now deceased respondent no.1; that under the pretext of preparing a rent agreement, the now deceased respondent no.1 obtained his signatures and thumb impressions on blank papers; that he continued to pay the electricity dues; that the now deceased respondent no.1 asked him to pay additional refundable security of Rs. 3,00,000/- for extending the tenancy for another period of three years, so he paid Rs. 84,110/- to respondent no.1 in cash on 01.10.2018 towards electricity dues and a further sum of Rs.3,00,000/- on 15.10.2018 towards additional security; that under these circumstances, the tenancy was extended for another period of three years on same rent; that the respondents got the electricity supply to the subject property disconnected; that when he requested for six months to vacate with offer to the respondent no.1 to retain the security of Rs. 8,00,000/- to resolve the electricity dues, son in law of respondent no.1 started threatening him, regarding which he lodged a police complaint; that on payment of the additional security amount, his tenancy got extended, so he is not liable to vacate the subject property; that he filed a suit against the respondents for permanent

injunction to restrain them from forcibly evicting him from the subject property and in that suit along with the written statement, the present respondents filed copy of legal notice of termination of tenancy; that it is only after receipt of copy of written statement in the other suit that he came to know about the quit notice, otherwise the notice was never delivered to him.

2.3 In view of pleadings in the written statement, the respondents filed application under Order XII Rule 6 CPC seeking partial decree of the suit for recovery of possession of the subject property on the ground that the appellant in his written statement had made unambiguous admissions. The respondents pleaded in the said application that in his written statement, the appellant had unambiguously admitted himself to be the tenant in the subject property by way of rent agreement dated 24.02.2016 for a period of three years; that the rate of rent was claimed by the appellant to be Rs. 10,000/- per month; and that the tenancy was terminated by way of quit notice dated 08.02.2019 as well as expiry thereof with efflux of time, therefore, they are entitled to the preliminary decree of recovery of possession of the subject property under Order XII Rule 6 CPC.

2.4 In his reply to the application, the appellant reiterated the contents of his written statement and reaffirmed that he never denied being a tenant in the subject property under the respondents, but further pleaded that the quit notice was void because it was issued on the ground of non payment of electricity dues whereas those dues of Rs. 84,110/- had already been paid by

him to respondent no.1, but those dues were not paid further by the respondents to the electricity supply authority; that the respondents were not competent to terminate the tenancy, because the tenancy had been orally extended for three years on same rent subject to payment of additional security amount of Rs. 3,00,000/- which was paid by him; and that without refunding the said amount of Rs. 8,00,000/-, he cannot be evicted from the subject property.

2.5 After hearing both sides, the learned trial court allowed the application under Order XII Rule 6 CPC by way of the impugned judgment and preliminary decree for recovery of possession of the subject property in favour of the present respondents.

3. Hence, the present appeal.

4. During arguments, learned counsel for appellant contended that since the appellant had spent substantial money on renovation of the subject property in order to make it suitable for running gymnasium, the suit has to be taken through full dress trial and preliminary decree under Order XII Rule 6 CPC is not sustainable. Learned counsel for appellant also contended that since the tenancy was extended orally after the appellant paid additional security amount, there was no termination of tenancy and therefore, preliminary decree under Order XII Rule 6 CPC is not sustainable. Learned counsel placed reliance on the judgments in the cases titled ***Jeevan Diesels***

& Electricals Ltd. vs. Jasbir Singh Chadha (HUF) & Anr., (2010) 6 SCC 601 and ***Payal Vision Ltd. vs. Radhika Choudhary,*** (2012) 11 SCC 405.

5. For ready reference, the provision under Order XII Rule 6 CPC is extracted below:

> *“**6. Judgment on admissions**.—(1) Where admissions of fact have been made either in the pleading or otherwise; whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question-between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.*
> *(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.”*

5.1 No law expects any litigant to undergo rigmaroles of protracted trials and litigations where there is no dispute on the relevant aspects. Where the defendant does not dispute claim of the plaintiff in whole or in part, it would be counterproductive for the justice dispensing machinery to make the plaintiff undergo full dress trial. Where the defendant admits the entire or part of the claim raised by the plaintiff, it would be fair and reasonable for the court to allow the claim of the plaintiff to the extent of admissions. The provisions under Order XII Rule 6 CPC were enacted to give the parties a speedy judgment where there is no controversy. Earlier, the provision under Order XII Rule 6 CPC stipulated that any party may at any stage of a suit, where admissions of facts have been made either on pleadings or otherwise, apply to the court for such judgment or order as upon such admissions he may be entitled to, without waiting for the determination of any other question between the parties and the court may upon such application make

such order or judgment as the court may think just. The Law Commission of India in its 54th report suggested an amendment in the said provision in order to enable the court deliver a judgment not only on the application of a party but on its own motion as well. Accordingly, the provision was amended in order to further the ends of justice and to widen the scope of the provision by empowering the judges to use it *ex debito justitiae* (an obligation of justice). Reading the provision under Order XII Rule 6 CPC as its stands, in an appropriate case, a party to the *lis* on the basis of admissions of the rival party can press for judgment as a matter of legal right. However, the court always retains discretion in the matter of pronouncing the judgment. The expressions “admission of fact” and “either in the pleading or otherwise, whether orally or in writing” used in Order XII Rule 6 CPC show the wide expanse of the provision to the extent that the admissions in question can be inferred from facts and circumstances of the case also.

5.2 A Division Bench of this court in the case of ***Bhartia Industries Ltd. vs Rajiv Saluja***, 112 (2004) DLT 82 DB, upheld the judgment of the learned Single Judge, whereby the suit was decreed under Order XII Rule 6 CPC in view of admission of facts in regard to the relationship of landlord and tenant, termination of tenancy by efflux of time or in any case by way of quit notice which was duly served on defendant.

5.3 In the case of ***National Radio and Electronic Company Ltd. vs Motion Picture Association***, 122 (2005) DLT 629 DB, a Division Bench of this court upheld the decree passed by the trial court under Order XII Rule 6

CPC in view of admission of relationship of tenancy, rate of rent being more than Rs. 3,500/- per month and service of quit notice by the defendant. The said legal position was reiterated also in the case of ***Payal Vision*** (supra) relied upon by learned counsel for appellant himself.

5.4 In the case of ***Karam Kapahi vs Lal Chand***, 168 (2010) DLT 501 SC, the Hon'ble Supreme Court held thus:

> *"46. The principles behind Order 12 Rule 6 are to give the plaintiff a right to speedy judgment. Under this Rule either party may get rid of so much of the rival claims about 'which there is no controversy' [See the dictum of Lord Jessel, the Master of Rolls, in Thorp versus Holdsworth in (1876) 3 Chancery Division 637 at 640]. In this connection, it may be noted that Order 12 Rule 6 was amended by the Amendment Act of 1976.*
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> *47. Prior to amendment the Rule read thus:- "6. Judgment on admissions. - Any party may, at any stage of a suit, where admissions of facts have been made, either on pleadings or otherwise, apply to the Court for such judgment or order as upon such admission he may be entitled to, without waiting for the determination of any other question between the parties and the Court may upon such application make such order or give such judgment, as the Court may think just."*
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> *48. In the 54th Law Commission Report, an amendment was suggested to enable the Court to give a judgment not only on the application of a party but on its own motion. It is thus clear that the amendment was brought about to further the ends of justice and give these provisions a wider sweep by empowering judges to use it ex debito justitia, a Latin term, meaning a debt of justice. In our opinion the thrust of the amendment is that in an appropriate case, a party, on the admission of the other party, can press for judgment, as a matter of legal right. However, the Court always retains its discretion in the matter of pronouncing judgment.*
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> *49. If the provision of Order 12 Rule 1 is compared with Order 12 Rule 6, it becomes clear that the provision of Order 12 Rule 6*

is wider in as much as the provision of order 12 Rule 1 is limited to admission by 'pleading or otherwise in writing' but in Order 12 Rule 6 the expression 'or otherwise' is much wider in view of the words used therein namely: 'admission of fact.....either in the pleading or otherwise, whether orally or in writing'.

50. Keeping the width of this provision in mind this Court held that under this rule admissions can be inferred from facts and circumstances of the case [See Charanjit Lal Mehra and others v. Kamal Saroj Mahajan (Smt.) and another, (2005) 11 SCC 279 at page 285 (para 8)]. Admissions in answer to interrogatories are also covered under this Rule [See Mullas's commentary on the Code, 16th Edition, Volume II, page 2177].

51. In the case of Uttam Singh Duggal & Co. Ltd., v. United Bank of India and others, (2000) 7 SCC 120, this Court, while construing this provision, held that the Court should not unduly narrow down its application as the object is to enable a party to obtain speedy judgment".

5.5 In the case of ***National Textile Corporation vs Ashval Vaderaa,*** 167(2010) DLT 602, this court reiterated thus:

"17. ***It is settled law that admissions need not be made expressly in the pleadings. Even on the constructive admissions Court can proceed to pass a decree in plaintiff's favour****. In order to invoke the provisions of Order XII Rule 6 CPC, admissions de hors pleadings may also be considered as is evident from the use of the word "otherwise" in the said provision. [See Shikharchand vs. Mst. Bari Bai, AIR 1974 MP 75; K. Kishore vs. Allahabad Bank, 1997 (41) DRJ 698; Uttam Singh Dugal vs. UBI, (2000) 7 SCC 120; Rajiv Srivastava vs. Sanjiv Tuli, 119 (2005) DLT 202; Rama Ghei vs. U.P. State Handlom Corpn., 91 (2001) DLT 386 and R.N. Sachdeva vs. R.L. Mahajan Charitable Trust, 1997 (41) DRJ 698]. Such admissions may be contained in documents written or executed between the parties before the action is brought or even from the statements of parties recorded in the Court, including statements recorded under Order X Rule 1 CPC.* ***Admissions may also be gleaned from vague and unspecific denials made in the pleadings and documents, which on the face of it appear to have been deliberately made in order to mislead the Court, or***

gathered from the non- traversal of specific averments made in the pleadings and documents.

18. It is the bane of the judicial system that with a view to protract and drag on the case, a litigant who is a wrong-doer often takes all sorts of false and legally untenable pleas. Such litigants should not be allowed to hijack the judicial process and to subvert the cause of justice. ***Where it is palpably clear to the Court that the defence is with the sole purpose of protracting the proceedings to the advantage of the wrongdoer and the disadvantage of the aggrieved party, it becomes the bounden duty of the Court to save the latter from going through the rigmarole of a futile and expensive trial****. For this, the Court has been invested with sweeping powers by a number of provisions in various statutes, the most potent of which are the provisions of Order XII Rule 6 read with Order VIII Rules 3 and 4 CPC. Regrettably, the said provisions, though exploited by the Courts to the advantage of the judicial process, have yet to reach the optimum level of exploitation. It thus becomes imperative on this Court to use the powers reposed in it to prevent misuse of the judicial process, to cut short laws' delays and to save the aggrieved party from the travails of a long drawn out litigation, often outliving his life span itself and falling into the lap of his survivors."*

(emphasis supplied)

6. Falling back to the present case, as mentioned above, according to the respondents, by way of rent agreement dated 24.02.2016, the appellant was inducted as tenant in the subject property for a period of three years at a monthly rent of Rs. 35,000/- for first year, Rs. 36,750/- for the next year and Rs. 38,588/- for the third year and interest free refundable security deposit of Rs.1,00,000/- was taken from him. The appellant in his written statement denied having entered into any such rent agreement, but pleaded that his signatures were taken on blank papers by the respondents under the pretext of preparing rent agreement and that he had been inducted as a tenant in the subject property at a monthly rent of Rs. 10,000/- while the interest free

refundable security deposit was Rs. 5,00,000/-. Nevertheless, as regards relationship of tenancy between the parties and the rate of rent relevant for present purposes, there is unambiguous admission on the part of the appellant that he had been inducted as a tenant in the subject property by the respondents and the rate of rent was more than Rs.3,500/- per month. That being so, the appellant is clearly not entitled to the statutory protection of the Delhi Rent Control Act. The plea raised by the appellant that he spent Rs. 8,00,000/- on renovation of the subject property is not relevant for present purposes. For, that expenditure does not alter nature of the *jural* relationship of tenancy between the parties. Even in the judicial precedent of ***Payal Vision*** (supra) relied upon by learned counsel for appellant, it was clearly held that the relationship of landlord and tenant remains unaffected even if the tenant has with or without the consent of the landlord made structural changes in the tenant property.

7. So far as the third issue is concerned, viz., termination of tenancy or expiry of tenancy by efflux of time, the respondents specifically pleaded that the tenancy was terminated on 28.02.2019 by way of quit notice dated 08.02.2019 duly served on the appellant, and in any case, by efflux of time vide the rent agreement dated 24.02.2016. On the other hand, the appellant denied having been duly served with a valid quit notice and pleaded that subsequent to the expiry of period prescribed under the rent agreement, the tenancy was orally extended on same rent for another period of three years as he paid additional refundable security amount of Rs. 3,00,000/-. The appellant further pleaded that in the suit filed by him, the respondents along

with their written statement filed a copy of the quit notice and it is only then that he came to know about issuance of the said notice. That being so, what has to be examined is as to whether the tenancy was lawfully terminated by way of quit notice and/or it expired with efflux of time. At the same time, it also needs to be examined as to whether such requirement is at all necessary in the light of the legal position.

7.1 In the case of ***Satya Narayan Spun Pipe Factory vs N. Padmavati***, 2003 (3) RCR (Civil) 388, the Andhra Pradesh High Court relying upon judgment of Hon'ble Supreme Court of India in the case of ***Datto Pant vs Vithal Rao,*** AIR 1975 SC 1111, held that when tenancy is determined with efflux of time, no quit notice is necessary.

7.2 In the case of ***Skyland International Private Limited vs. Kavita P. Lalwani***, RFA 697/2010 decided by coordinate bench of this court, legal position as regards writing a judgment on admissions was discussed at length, holding *interalia* that as held in the case of ***Nopany Investments Private Limited vs. Santokh Singh (HUF)***, 2008 (2) SCC 728 filing of the suit in itself is a notice to quit on the tenant, therefore no notice to quit under Section 106 of the Transfer of Property Act is necessary to enable the landlord to get the decree of possession.

7.3 In the case of ***K.M. Manjunath vs. Erappa G. Dead through LRs,*** 2022 SCC OnLine SC 2316, the Supreme Court approved the decision of the High Court whereby relying upon a Division Bench decision of the

Karnataka High Court in the case of ***M.C. Mohammed vs. Smt. Gowramma,*** AIR 2007 Kar 46, rendered relying upon the decision of the Supreme Court in the case of ***Pooran Chand vs. Motilal,*** AIR 1964 SC 461 held that on expiry of the term fixed under the rent deed, the tenant would not be entitled to statutory notice under Section 106 of the Transfer of Property Act. It was held that on determination of the lease by efflux of time, no further termination of the tenancy by issuing statutory notice to bring termination of a lease already terminated is necessary.

7.4 In the case of ***Jeevan Diesels*** (supra), relied upon by learned counsel for appellant, the circumstances were different from the present case insofar as therein the lease deed could not be terminated in view of clauses contained in the deed, so the tenant pleaded that the tenancy had not expired by efflux of time; and therefore, the matter was remanded to this High Court. Thereafter, the learned Single Judge of this court in the judgment reported as 2011 SCC OnLine Del 1515 bearing same title observed thus:

> *"10. So far as the argument based upon Clause 6 of the lease deed is concerned, in my opinion, the argument is without substance as the lease document relied upon is an unregistered lease deed and which cannot create a lease for a fixed period unless the lease deed was duly registered. Unless and until a lease for fresh periods is in fact duly entered into in terms of Clause 6 of the lease deed dated 7.7.2003, the appellant would remain a tenant only from month to month.* ***In law, either there is a tenancy for a specific period in terms of a duly registered lease deed, and in which case the tenant would have protection for the period of lease or if there is no registered lease deed for the leased premises then the tenancy will be on a month to month basis. In the present case, there being no registered lease deed, even originally, or for further periods, the tenancy had always been a month to month tenancy which could be terminated by a***

notice under Section 106 of the Transfer of Property Act, 1882*. Mere existence of Clause 6 would not automatically mean that there is an automatic creation of a registered lease deed for regular fresh periods of three years. This argument of the appellant is therefore rejected."*

(emphasis supplied)

7.5 In the case of ***Shri Sourabh Agarwal vs. Sh. Megh Raj Mansharamani,*** 2014 SCC OnLine Del 129, this court observed thus:

"2. In Delhi, in order to maintain the suit for possession in a civil court against the tenant, it is necessary that the following facts must exist :

(i) There is a relationship of landlord and tenant between the parties;

(ii) The rate of rent of the premises is more than Rs. 3,500/- per month; and

(iii) The tenancy of the tenant has either expired by efflux of time or stands duly terminated by a notice under Section 106 of the Transfer of Property Act, 1882.

3. In the present case, there is no dispute as to the relationship of the landlord and tenant between the parties and also that the rate of rent of the premises is more than Rs. 3,500/- per month. Both these admissions are specifically contained in paragraph 2 of the reply on merits and para 12 of the preliminary objections of the written-statement of the appellant-defendant. In fact, these aspects are also not disputed before me and dispute is only raised with respect to lack of termination of tenancy, and that once there is a disputed question of fact with respect to termination of tenancy, the suit it is argued could not have been decreed under Order 12 Rule 6 CPC. In support of this argument on behalf of the appellant, reliance is placed upon the judgment of the Supreme Court in the case of Jeevan Diesels and Electricals Limited v. Jasbir Singh Chadha (HUF) (2010) 6 SCC 601 which holds that admissions must be clear and unambiguous before the same are relied upon for the purpose of Order 12 Rule 6 CPC.

4. The argument urged on behalf of the appellant is misconceived and now the legal position so far as this Court is concerned, is as per the judgment of this Court in the case of the same name being Jeevan Diesels and Electricals Limited v. Jasbir Singh Chadha (HUF) (2011) 183 DLT 712 and which judgment holds that ***after the amendment of Section 106 of the Transfer of Property Act, 1882 by the legislature to do away***

with the technical defences of service of notice, even service of summons in the suit can be treated as a notice under Section 106 of the Transfer of Property Act, 1882. This judgment also holds that alongwith suit documents are filed which will include the legal notice terminating tenancy and again therefore on receipt of such documents including the legal notice terminating tenancy there is termination of tenancy.....

However, it has been held in various judicial pronouncements that the service of summons in the suit will be taken as the receipt of notice of the dissolution of the partnership or severing of the joint status in case of non service of appropriate notices and therefore the suits for dissolution of partnership and partition of HUF property cannot be dismissed on the technical ground that the partnership was not dissolved before filing of the suit or the joint status was not severed before filing a suit for partition of the HUF property by serving of appropriate notices.

In my opinion, similar logic can be applied in suits for possession filed by landlords against the tenants where the tenancy is a monthly tenancy and which tenancy can be terminated by means of a notice under Section 106 of the Transfer of Property Act. Once we take the service of plaint in the suit to the appellant/defendant as a notice terminating tenancy, the provision of Order 7 Rule 7 CPC can then be applied to take notice of subsequent facts and hold that the tenancy will stand terminated after 15 days of receipt of service of summons and the suit plaint. This rationale ought to apply because after all the only object of giving a notice under Section 106 is to give 15 days to the tenant to make alternative arrangements*. In my opinion, therefore, the argument that the tenancy has not been validly terminated, and the suit could not have been filed, fails for this reason also.....*

5. The legal position enunciated in the case of Jeevan Diesels and Electricals Limited (supra) has thereafter been consistently followed in hundreds of other cases decided by the Courts in Delhi. The judgment in the case of Jeevan Diesels and Electricals Limited (supra) has also been followed in various other judgments even of this Court. Therefore, in my opinion, there is no disputed question of fact with respect to termination of tenancy which requires trial and thus the ratio of the Supreme Court judgment relied upon by the appellant will not apply in the facts of the present case."

(emphasis supplied)

7.6 In the case of ***Chittraroopa Palit vs. Global Health Pvt. Ltd. & Anr.,*** 2013 SCC OnLine Del 3024, this court recapitulated the legal position thus:

> *"17.* ***The Supreme Court in the case of Nopany Investments (P) Ltd. v. Santokh Singh (HUF), (2008) 2 SCC 728 held that the filing of the eviction suit under general law itself was notice to quit upon the respondents and thus even as per the alleged claim of the respondent No. 2 of a separate tenancy, the same being a month to month tenancy, the same stood terminated on the filing of the suit and service of summons, plaint and documents thereof upon him.***
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> *18. As rightly held by esteemed brother J.R. Midha, J. in the case of Sky Land International Pvt. Ltd. v. Kavita P. Lalwani, 191 (2012) DLT 594 wherein the court has dealt with similar aspect of issue in great details in para 26.7 to 26.12 and 26.17 which read as under:*
>
> > *"26.7 The pleadings are the foundation of litigation and must set-forth sufficient factual details. Experience has shown that all kinds of pleadings are introduced and even false and fabricated documents are filed in civil cases because there is an inherent profit in continuation of possession. In a suit for ejectment, it is necessary for the defendant to plead specifically as to the basis on which he is claiming a right to continue in possession. A defendant has to show a subsisting right to continue as a lessee. No issue arises on vague pleadings. A vague denial of the receipt of a notice to quit is not sufficient to raise an issue. To rebut the presumption of service of a notice to quit, the defendant has to plead material particulars in the written statement such as where after receiving the plaint and the documents, the defendant has checked-up with the Post-Office and has obtained a certificate that the postal receipt filed by the plaintiff was forged and was not issued by the concerned Post Office.*
> > *26.8 A self-serving denial by the defendant and more so in these types of cases, cannot hold back the Court from exercising its jurisdiction to decree a suit under Order XII Rule 6 of the Code of Civil Procedure. Raising a plea of non-receipt of notice to quit and seeking an issue on it is obviously to drag on the litigation and keep on holding to the suit property without having to pay the current market*

rentals, is not sufficient to raise an issue and, therefore, liable to be rejected.

26.9 ***If such a plea of denial of notice is treated as sufficient to non-suit the plaintiff, the plaintiff will have serve a fresh notice to quit and then bring a fresh suit where again the defendant would deny the receipt of notice to seek an issue and trial. The process would go on repeating itself with another notice, in fact, repeat ad-infinitum and in this manner, the defendant will be able to effectively stay indefinitely till the plaintiff settles with him for a price. The Court cannot remain a silent spectator and allow the abuse of process of law. The eyes of the Courts are wide enough to see the truth and do justice so that the faith of the people in the institution of Courts is not lost.***

26.10 ***In view the amendment brought about to Section 106 of the Transfer of Property Act by Act 3 of 2003, no objection with regard to termination of tenancy is permitted on the ground that the legal notice did not validly terminate the tenancy by a notice ending with the expiry of the tenancy month, as long as a period of 15 days was otherwise given to the tenant to vacate the property****. The intention of Legislature is therefore clear that technical objections should not be permitted to defeat the decree for possession of tenanted premises once the tenant has a period of 15 days for vacating the tenanted premises.*

26.11 ***Therefore, even if the notice of termination is held to be invalid, service of summons of the suit for possession can be taken as notice under Section 106 of the Transfer of Property Act read with Order VII Rule 7 of the Code of Civil Procedure but in that event the landlord would be entitled to mesne profits after the expiry of 15 days from the date of the receipt of summons and not from the date of notice of termination****.*

26.12 The purpose of Order XII Rule 6 CPC is to give the plaintiff a right to speedy judgment. The thrust of amendment of Order XII Rule 6 is that in an appropriate case a party on the admission of the other party can press for judgment as a matter of legal right. If a dishonest litigant is permitted to delay the judgment on the ground that he would show during the trial that he had not

> *received the notice, the very purpose of the amendment would be frustrated.*
> *26.17 In the last 40 years, a new creed of litigants have cropped up who do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the Courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final."*

8. Admittedly, in the present case the initial tenancy between the parties through the rent agreement dated 24.02.2016 expired by efflux of time on 28.02.2019. According to the appellant, tenancy was extended for further period of three years orally. It is no longer *res integra* that an oral tenancy is at the most month to month tenancy. As held in the above quoted judicial pronouncements, the tenancy (*according to both sides*) or even the extended tenancy (*as alleged by the appellant only*) was not by way of a registered instrument and that being so, it was a month to month tenancy, which was terminated on receipt of the copy of quit notice by the appellant along with written statement in the suit filed by him.

9. As mentioned above, though the appellant denied having been served with the quit notice dated 08.02.2019 but admitted that after 28.02.2019, the tenancy was only verbal, which as per law is month to month basis. The appellant further pleaded that about the quit notice dated 08.02.2019 he came to know when he received a copy thereof with written statement of the present respondents in the suit filed by him. So, the quit notice was clearly received by him, though he did not disclose the date of receipt thereof. The

purpose of issuance of quit notice was only to inform the appellant tenant that he was expected to vacate the subject property and must do alternate arrangement for himself. But most importantly, in terms with the judicial pronouncements quoted above, service of the summons of the present suit out of which the present appeal has arisen was in itself a notice to quit and no separate notice was even required.

10. The irresistible conclusion is that the appellant admitted having been inducted as a tenant in the subject property by the respondents at a monthly rent much above the protection ceiling stipulated under the rent control legislation and the month to month tenancy was duly terminated. That being so, the learned trial court was completely justified in writing judgment *qua* recovery of possession of the subject property on admissions, leaving the issue of rival monetary claims to be put on tracks of full dress trial. I am unable to find any infirmity in the impugned judgment and decree, so the same are upheld. The appeal and the accompanying application are dismissed.

GIRISH KATHPALIA

Digitally signed by GIRISH KATHPALIA
DN: c=IN, o=HIGH COURT OF DELHI, ou=DELHI HIGH COURT, 2.5.4.20=8401dd889b27a77b2f65ffffe4afec45569af3962c6fb4835d435f97626cacca, postalCode=110003, st=DELHI, serialNumber=D3E86796451EC45C07B5D1557099684 0F80CBD2EEE60402C487965FF801E26FA, cn=GIRISH KATHPALIA
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GIRISH KATHPALIA
(JUDGE)

DECEMBER 10, 2024/*ry*