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

% Judgment reserved on: 04.10.2024
Judgment delivered on: 25.10.2024

\+ CM(M) 1010/2021 & CM APPL. 40207-40208/2021 & CM APPL. 10333/2022 & CM APPL. 3315/2024

IQBAL SINGH AND ORS .....Petitioner

versus

DR A K GUPTA .....Respondent

Memo of Appearance

For the Petitioner: Mr. Praveen Suri and Mr. Akhil Kumar, Advocates

For the Respondent: Mr. J.P. Singh, Senior Advocate with Mr. Sanjay Verma, Mr. Rajiv Takbi, Mr. Hariom Sharma and Mr. Arjun Ahuja, Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

MANOJ JAIN, J

1. It needs to be evaluated whether a tenant after voluntarily agreeing to enhance the rent can retract later.

2. The petitioners herein are landlords and respondent their tenant.

3. For the sake of convenience, I would be referring to the parties as per their nomenclature in the Eviction Petition and, therefore, the petitioners would be referred to as ‘landlord’ and the respondent as ‘tenant’.

4. The tenanted shop is J-158, Rajouri Garden, New Delhi-110027 where a clinic is being run.

5. The crunch issue is with respect to ‘rate of rent’.

6. The landlord filed Eviction Petition on the ground of non-payment of rent under Section 14(1)(a) of Delhi Rent Control Act, 1958 (in short “DRC

Act"). In such Eviction Petition, it was claimed that the last rent paid by the tenant was upto September, 2009 when it was paid @ Rs. 2,357/- per month. However, in terms of one agreement/affidavit executed by tenant on 15.05.2000, the rent had become Rs. 2,592/- per month from May, 2010 and, thereafter, Rs. 2851/- per month from May, 2011. Besides the above, the electricity and water consumption charges were also payable by the tenant directly to the concerned Authorities.

7. The landlord also claimed in the Eviction Petition that the premises had been let out several years back and there was no written agreement when the suit shop had been let out. *However, the tenant himself had executed one affidavit-cum-undertaking on 15.05.2000 and the above said rent was thus being claimed from him in view of such affidavit/undertaking given by the tenant himself.*

8. It was averred in the Eviction Petition that despite the notice issued with respect to the rent due for the above said period, the entire payment of the *"whole arrears of rent along with interest"* had not been made. According to landlord, the total due amount of the rent was Rs. 78,964/-, besides interest but the tenant had remitted a cheque of Rs. 73,067/- towards arrears of rent and Rs. 14,880/- towards interest.

9. It was stated in the Eviction Petition that the aforesaid tender was not towards the complete arrears of rent and, therefore, the tenant had committed default as the entire arrears were not cleared within two months from the receipt of such notice dated 10.03.2012.

10. It was in the above said factual backdrop that eviction was sought.

11. As already noticed above, there was no rent agreement when the above said shop was initially let out to the tenant.

12. However, the tenant had executed one affidavit/undertaking and in such affidavit he claimed as under:-

"AFFIDAVIT/UNDERTAKING

A. K. Gupta S/o Sh. O.P. Gupta R/o F-85, Bali Nagar, N.D. do hereby solemnly affirm and declare as under:-

1) That I am a tenant in the property bearing no. J-158, Rajouri Garden, New Delhi in respect of one garage utilized by me as a shop which premises were let out to me by late Sardar Warayam Singh.

2) That after the death of late Sr. Warayam Singh, I am paying the rent to the legal herein of Sr. Warayam Singh, namely, Smt. Swarn Kaur who is receiving the rent for herself and on behalf of other sons and daughters of late Sr. Warayam Singh.

3) That with the consent of landlords, I have installed a split Air Conditioner in the aforesaid premises and the unit is now mounted on the wall outside the premises with their consent and I have undertook to remove it as and when directed by the landlords in case of any kind whatsoever on the walls and would not obstruct any construction process on account of this Air Conditioner unit. I shall remove it as and when so directed till the construction is completed.

4) That the actual rate of rent as agreed is Rs. 1,000/- per month which I shall go on paying regularly in advance every month without any default. I also agree to increase the rent by 10% every year.

Verification: -

Verified at Delhi on 15 May 2000 that the contents of the above affidavit of mine are true and correct and nothing relevant has been concealed therefrom.

Deponent"

(emphasis supplied)

13. Such agreement would reflect that there is no dispute that the respondent is tenant in the suit shop.

14. The tenant also categorically mentioned that the agreed rate of rent was Rs. 1,000/- per month which he undertook to pay regularly in advance every month without any default and also agreed to increase the rent by 10% every year.

15. The sole crucial aspect in the present case is to weigh up the legal implication of such undertaking given by the tenant whereby he agreed to increase the rent by 10% every year.

16. Before adverting to the same, it will be important to see as to what was the stand of the tenant.

17. The relationship of the landlord and tenant is not denied.

18. However, with respect to the above said affidavit/undertaking dated 15.05.2000, *it was mentioned in the written statement by the tenant that the landlord had forced him to sign and execute the same.* It was also supplemented that such enhancement in the rental was contrary to the express provision of law. The tenant also stated that the legal notice in question was containing illegal demand for escalated/enhanced rental and since he had tendered *legally recoverable* dues, the petition was not maintainable.

19. It will also be important to highlight, right here, that in such written statement, the tenant had mentioned the rate at which the rent was paid by him for various previous years. Such table is extracted as under: -

Year	*Rate of rent per month*
2005-06	*Rs. 1,610/-*
2006-07	*Rs. 1,771/-*
2007-08	*Rs. 1948/-*
2008-09	*Rs. 2,143/-*
2009 (prior to the institution of this eviction petition from 01.05.2009 till 30.09.2009)	*Rs. 2,357/-*

20. It also needs to be noticed that during the pendency of the matter before learned Rent Controller, an order under Section 15(1) of DRC Act was passed directing the tenant to pay the arrears of rent with effect from 01.10.2009 @ Rs.2,357 per month within a period of one month with direction to keep on paying future rent at the aforesaid rate by 15th of each succeeding English Calendar month.

21. In order to prove his case, the landlord examined one of the petitioners i.e. PW-1 Sh. Amarjeet Singh and from the side of the respondent, the tenant himself entered into witness box as RW-1.

22. The eviction had been sought on the ground of Section 14(1)(a) of DRC Act, 1985, which reads as under: -

> *"**14. Protection of tenant against eviction**— (1) Notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by any court or Controller in favour of the landlord against a tenant:*
>
> *Provided that the Controller may, on an application made to him in the prescribed manner, make an order for the recovery of possession of the premises on one or more of the following grounds only, namely:—*
>
> *(a) that the tenant has neither paid nor tendered the whole of the arrears of the rent legally recoverable from him within two months of the date on which a notice of demand for the arrears of rent has been served of him by the landlord in the manner provided in section 106 of the Transfer of Property Act, 1882.*

23. In terms of Section 14(2) of DRC Act, 1958, no order for recovery of

possession can be made on the above said ground if the tenant makes payment or deposit the rent, as required by Section 15 of DRC Act, 1985.

24. Such Section 14(2) of DRC Act, 1985 reads as under:-

> *"(2) No order for the recovery of possession of any premises shall be made on the ground specified in clause (a) of the proviso to sub-section (1), if the tenant makes payment or deposit as required by section 15:*
>
> *Provided that no tenant shall be entitled to the benefit under this sub-section, if, having obtained such benefit once in respect of any premises, he again makes a default in the payment of rent of those premises for three consecutive months."*

25. In order to make out a successful case seeking eviction of his tenant on the ground of non-payment of rent, any landlord is required to show that (i) there exists a relationship of landlord and tenant between the parties; (ii) there are arrears of rent; (iii) such arrears are towards legally recoverable rent; (iv) service of legal notice seeking payment of whole of the arrears of the rent and (v) failure of tenant to pay or tender such whole of the arrears of the rent legally recoverable from him within two months

26. Admittedly, there is no dispute about the service of legal notice and also about the relationship of landlord and tenant between the parties.

27. The most crucial aspect is to assess the rate of rent, which, in turn, would give us clarity about the exact quantum of *legally recoverable rent*.

28. According to landlord, rent is payable by the tenant in terms of his own affidavit/undertaking. According to him, the tenant himself, in the year 2000, had agreed the rent as Rs.1000/- per month and had undertaken to increase the same by 10% every year and pursuant thereto, the tenant himself kept on

paying rent at the enhanced rate for all these years and the last paid rent in the year 2009 was @ Rs.2,357 per month. According to landlord, such rent would become Rs.2,592/- per month from may 2010 and Rs.2,851/- per month from May, 2011 and the tenant was, therefore, required to pay the rent at the aforesaid rate.

29. As per tenant, the landlord merely wanted him to vacate the premises in an unlawful manner. According to him, the purported affidavit/undertaking dated 15.05.2000 was got executed forcibly and he was made to sign the same and the stipulation in such undertaking was against the statutory provision as the rent could not have been enhanced @ 10% every year. *All in all, according to him, the legally recoverable rent is @ Rs.2,357/- per month and any further escalation would be against the statutory provisions.*

30. The tenant relied upon Section 6A and Section 8 of DRC Act, 1985, which read as under:-

> *"**6A. Revision of rent.**—Notwithstanding anything contained in this Act, the standard rent, or, where no standard rent is fixed under the provisions of this Act in respect of any premises, the rent agreed upon between the landlord and the tenant, may be increased by ten per cent. every three years.*
>
> ***8. Notice of increase of rent**.—(1) Where a landlord wishes to increase the rent of any premises, he shall give the tenant notice of his intention to make the increase and in so far as such increase is lawful under this Act, it shall be due and recoverable only in respect of the period of the tenancy after the expiry of thirty days from the date on which the notice is given.*
> *(2) Every notice under sub-section (1) shall be in writing signed by or on behalf of the landlord and given in the manner provided in section 106 of the Transfer of Property Act, 1882."*

31. Learned Controller, after analysis of the statutory provisions, taking note of the judicial precedents on the above said aspect, analyzing the

evidence and keeping in mind the fact that the tenant had himself enhanced the rate of rent every year all by himself, returned a finding that there was no duress or compulsion caused upon the tenant and that since he had himself admitted execution of such undertaking/affidavit and since he had failed to show that his signatures were taken under duress, it came to conclusion that such undertaking/affidavit was bilateral in nature and, therefore, was not hit by Section 6A and 8 of DRC Act, 1958.

32. According to learned Controller, Section 6A and 8 of DRC Act, 1958 would come into play only when there was unilateral increase in the rent by the landlord. Accordingly, learned Controller concluded that the case under Section 14(1)(a) of DRC Act, 1958 stood proved and the learned Controller passed fresh order, modifying the earlier order passed under Section 15(1) of DRC Act, 1958 directing the tenant to pay or deposit such rent in accordance with his undertaking/affidavit within one month and the case was fixed for assessing whether the tenant had complied with the same or not in order to see whether he was entitled to be given benefit of Section 14(2) of DRC Act, 1958 or not.

33. Feeling aggrieved, tenant filed an appeal under Section 38 of DRC Act, 1958 before learned Rent Control Tribunal and learned Rent Control Tribunal, vide order dated 06.10.2021, set aside the above said order while holding that the rent could be enhanced only in the manner prescribed under Section 6A of DRC Act, 1958 and, therefore, the enhancement could only be @ 10% every three years and any departure therefrom was not permissible. *It was also held by learned Tribunal that though the affidavit-cum-undertaking dated 15.05.2000 was a bilateral contract but it could not bind the tenant as there could not have been any estoppel against the statute. It*

also observed that though the tenant could not have unilaterally withdrawn from making enhanced payment @ Rs.2,357/- per month but under legal advice, he decided not to pay enhanced rent with effect from 01.05.2010 while also observing that he was not legally bound to pay. Such observations recorded in para 21 of the impugned order read as under:-

> *"21. To sum up, Section 6A of the DRC Act prescribes a particular manner of increase in rent, which can only be 10% every three years and departure therefrom is not permissible. Although the affidavit cum undertaking dated 15th May, 2000 was by all accounts a bilateral contract, it can not be said to bind the appellant/tenant when the landlord elected to enforce recovery of rent by filing a petition for eviction under the DRC Act as there can not be estoppel against the statute. Indeed, the appellant/tenant could not have unilaterally withdrawn from making enhanced payment @ Rs. 2357/- per month, but then under legal advice he did not do so. In other words, the appellant/tenant decided no more to pay enhanced rent by 10% every year w.e.f 1st May, 2010 as he was not legally bound to pay. At the cost of repetition, the paramount object of the DRC Act inter alia is the protection of the tenants from unlawful demand by the landlords from claiming exorbitant rent. That being the case there was no "cause of action" available to the petitioners/landlords to issue notice dated 20.03.2012 Ex.PW-1/6 and to file the instant eviction petition. At the cost of repetition, arrears of rent had been tendered as per the last payable rate of rent vide letter dated 14.03.2012 'Mark-A' and it was further conceded by PW-1 in his cross-examination that arrears of rent along with interest were nonetheless paid by two cheques within two of months of notice dated 20th March. 2012 along-with reply dated 20.04.2012, which were deliberately not en-cashed by the petitioners/landlords to their own detriment."*

34. While holding above, it set aside the order passed by learned Controller and quashed further proceedings as well.

35. Such order is under challenge.

36. It is in the above backdrop of the facts that it is to be evaluated whether it is possible for the tenant to retract from his own admission on the premise that said agreement violates the statutory provisions.

37. There is no dispute that there is a concurrent finding that the above said agreement dated 15.05.2000 was bilateral in nature. The tenant had acted upon his own undertaking for around 9-10 years and obviously, realizing that if the rent keeps on getting enhanced in the above said fashion for future years, then he would be, eventually, outside the purview of DRC Act, 1958 and, therefore, he seems to have taken shelter behind Sections 6A and 8 of DRC Act, 1958, *albeit*, at a very belated stage.

38. As noticed already, he failed to prove that such agreement was result of any duress and coercion.

39. The aspect of duress was, even otherwise, unbelievable one as he himself kept on enhancing the rent @ 10% per annum for almost a decade. In case, he felt that he had paid or was compelled to pay rent in contravention of any of the provisions of DRC Act, 1958, he could have easily moved an application under Section 13 of DRC Act, 1958 seeking refund of such amount but nothing of that sort was ever contemplated by him.

40. Section 13 of DRC Act, 1958 reads as under:-

> *"**13. Refund of rent, premium, etc., not recoverable under the Act.**—Where any sum or other consideration has been paid, whether before or after the commencement of this Act, by or on behalf of a tenant to a landlord, in contravention of any of the provisions of this Act or of the Delhi and Ajmer Rent Control Act, 1952, the Controller may, on an application made to him within a period of one year from the date of such payment, order the landlord to refund such sum or the value of such consideration to the tenant or order adjustment of such sum or the value of such consideration against the rent payable by the tenant."*

41. Thus, it is quite evident that the mere endeavour of the tenant is to, somehow, protect his tenancy.

42. Sh. J.P. Sengh, learned Senior counsel for the respondent has, however, contended that there cannot be any estoppel against the law and,

therefore, such enhancement in the rent, as undertaken in the above said affidavit-cum-undertaking, is meaningless.

43. However, such argument does not click to conscience.

44. It is not a case of unilateral enhancement by a landlord. Such enhancement was rather undertaken by the tenant himself and such pact has been held to be bilateral in nature by both the fora below. Secondly and more importantly, such enhancement has been duly acted upon by such tenant.

45. Sh. J.P. Sengh, learned Senior Counsel for the respondent has also relied upon *Santosh Vaid vs. Uttam Chand: 2012 SCC Online Delhi 960.* However, therein, landlord had filed a suit against his tenant who had been paying rent @ Rs.150/- per month at the time of institution of suit and the landlord claimed that he was entitled to rent comparable to the valuation of rupee in the year 1984 when the premises were let out and thus sought rent @ Rs.6,500/- per month. The suit was, accordingly, filed claiming arrears of rent at the above said rate of Rs.6,500/- per month. The tenant in that case took plea that such suit was barred by the DRC Act, 1958 and, even otherwise, the rent could not be increased in violation of Section 6A read with Section 8 of DRC Act, 1958. It was in the above said context that this Court had observed that a landlord of a premises governed by the Delhi Rent Control Act, 1958 is entitled to have increase(s) in rent only in accordance with Section 6A and 8 thereof and not otherwise and that such a landlord cannot approach the Civil Court contending that the rent stands increased or should be increased in accordance with the inflation or cost price index.

46. The situation herein is totally different. There is no unilateral enhancement in the rent by the landlord and since, the enhancement has been

undertaken by the tenant himself, no benefit can be dug out from the aforesaid judgment. Moreover, herein, it not a case where the landlord had approached any Civil Court seeking increase in rent in terms of inflation.

47. Reliance by tenant on *Atma Ram Properties (P) Ltd. vs. Escorts Ltd. & Ors.*: 2012 SCC OnLine Del is misplaced as said judgment was distinguished in *Ishpinder Kochhar vs Deluxe Dentelles(P) Ltd & Anr:*2014 SCC OnLine Del 368. Reference be made to para 26 and 27 which read as under:-

> *"26. Reliance of the learned senior counsel for the defendants on the judgment of this High Court in the case of* ***Atma Ram Properties (P) Ltd. Vs. M/s.Escorts Ltd****,(supra) is misplaced. Paras 38 to 40 of the said judgment reads as follows:-*
>
> > *"38. Section 6A provides for revision of rent wherein the rent may be increased by ten percent (the interpretation is discussed under the separate head). Section 14 (1) proviso (a) provides for the ground of eviction on non payment of the rent and the same can be done by preferring the application for eviction before the Rent Controller. The mechanism for tendering the rent before the Rent Controller is also provided under Section 26 and 27 of the Act. Further, the powers of the Rent Controller are akin to the civil court though for limited purposes and finality clause enacted in Section 43 gives finality to the orders of the Controller and specifically bars the calling into question in any original suit, application or execution proceeding except in cases provided by the Act. To dispel any further doubt, Section 50 of the Act, provides for the express bar of jurisdiction of civil court in relation to standard rent in respect of any premises to which this Act applied or to eviction of any tenant there from or to any other matter which the controller is empowered by or under the Act to decide.*
> >
> > *39. All these provisions are indicative of the mechanism and working of the Rent Controller and appeal tribunal formed under the Act. The said provisions make it explicitly clear that the matters relating to standard rent or for that matter, increase in rent are the matters, which fall within the exclusive domain of the Rent Controller as the same is clear*

> *by way of reading of Section 6A read with Section 9 of the Act.*
> *40. Therefore, the matters relating to increase in rent or the standard rent which are falling within the exclusive domain of the Rent Controller to decide, cannot fall within the domain of the civil court to decide in view of the express bar of jurisdiction envisaged under Section 50 of the Act. Thus, the suits pertaining to matters of standard rent or increase in standard rent as contained in Section 6, 7 and 9 of the Act would be straightforwardly barred by way of operation of Section 50 of the Act read with Section 9 of Code of Civil Procedure Code."*

27. Similarly the Division Bench of this High Court in the case of ***Santosh Vaid & Anr. Vs. Uttam Chand*** *(supra) in para 29 held as follows:-*

> *"29. We accordingly answer the question framed by us herein above as under:-*
> *A landlord of a premises governed by the Delhi Rent Control Act, 1958 is entitled to have increase(s) in rent only in accordance with Section 6A and 8 thereof and not otherwise; such a landlord cannot approach the Civil Court contending that the rent stands increased or should be increased in accordance with the inflation or cost price index; the jurisdiction of the Civil Court in this regard is barred by Section 50 of the Delhi Rent Act."*

Clearly the facts of above two cases are not the same as the facts of this case. Both the judgments envisage a situation where the landlord is seeking enhancement of rent from the tenant in exercise of powers under Section 6A of the Delhi rent control Act. In the present case, the plaintiff does not seek enhancement of rent under Section 6A of the Delhi Rent control Act. The plaintiff submits that the rent had to be increased in terms of the agreement to lease agreed upon between the parties and further that the provisions of the said enhancement of rent have also duly been complied with by the parties. "

48. In *Ishpinder Kochhar (supra)*, tenant had taken plea that in view of Section 6A of DRC Act, there could not have been any automatic increase in the rent unless the same is demanded in accordance with the procedure laid down under Section 8 of DRC Act.

No notice under Section 8 of DRC Act was admittedly issued by the landlord therein either. However, the execution of agreement to lease was admitted which stipulated initial rent as Rs.2,650/- per month and also contained enhancement clause. Though in said case, the agreement was to enhance the rent @ 10% every three years, but the question was whether such agreement was against the statutory provisions of DRC Act or not. This Court, while relying on *Consep India Pvt. Ltd. vs. Cepco Industris Pvt. Ltd*.: 2010 SCC OnLine Del 1349 came to the conclusion that Section 6A and 8 of DRC Act would have no application where the lease deed itself provided for increase of rent and where rent was agreed between the landlord and tenant by consensus. It was held that the mechanism of increase in rent by giving a notice is though provided under Section 8 of DRC Act but such provision does not contain any embargo prohibiting an agreement between the landlord and the tenant to agree to increase the rent after periodic intervals, on their own.

49. In *Consep India Pvt. Ltd.* (supra), the premises were let out vide the agreement dated 01.12.1976 and as per the agreement, the rent was Rs.2,700/- per month for the first three years, Rs.3,240/- per month for the next following two years and Rs.3,780/- per month for the following two years. The tenant did not dispute the agreement but alleged that there was a prohibition to the periodical increase of the rent in the above said manner and such argument was rejected while observing as under:-

> *"39. Clearly, Section 6A envisages and permits revision of rent by 10% every three years. Such increase, the Section envisages, shall be*

> *made upon the standard rent or where no standard rent is fixed under the provisions of the Act in respect of any premises, the rent agreed upon between the landlord and the tenant. As such, it is only the rent agreed upon between the landlord and the tenant which is subject to revision by 10% every three years. This provision clearly can have no application in a case where in Lease Deed itself provision is made for the increase of rent and the rent is agreed upon between the landlord and the tenant by consensus."*

50. DRC Act is a beneficial piece of legislation which is designed and enacted with the objective to safeguard the tenants from unwarranted evictions resulting on account of landlord pressure, particularly regarding increase in the rent at a higher rate. It becomes the duty of the Courts to align and act in synchronization with such objective. However, if such increase has been volunteered and proposed by the tenant himself and the tenant continues to increase the rent in terms thereof, it cannot be revoked arbitrarily, particularly in the manner it has been done in the present case. Therefore, for all practical purposes, it has to be deemed to be a lawful increase.

51. The agreement has been held to be a bilateral one and it, therefore, binds tenant, more than the landlord.

52. Section 6A of DRC Act uses word "may" very consciously and permits that rent can be agreed upon to be increased by 10% every three years. However, it does not mean that if there is a consensus and mutual agreement, the escalation cannot exceed said rate. Section 6A does not talk about any such prohibition. If the landlord and tenant are *ad idem*, they can always choose to enhance the rate even beyond the dictum of Section 6A of DRC Act.

53. What is barred is the unilateral enhancement by the landlord.

54. Therefore, any escalation or increase in the rent in violation thereof by a landlord in a unilateral manner would be against the statute but if the tenant

himself, voluntarily and gleefully, agrees to enhance the rent at a faster rate, it would not violate the above said statutory provisions. Once chosen to enhance the rent and after having acted upon the same, such tenant cannot be permitted to raise any grievance and thereby, in a clever manner to retract from his own admission.

55. Moreover, even in those cases where the increase is agreed @ 10% every three years, eventually, such tenancy would certainly, at some point of time, come outside the purview of DRC Act, 1958, once the rent goes beyond Rs.3,500/- per month. Thus, mere fact that the tenancy would eventually go outside DRC Act cannot be made basis of retraction.

56. Section 8 of DRC Act does not come into picture in the present peculiar context as the landlord had never expressed his desire to increase the rent. The Notice in question is merely based on the above said affidavit-cum-undertaking which had been signed and executed by the tenant way back in the year 2000.

57. It will be also useful to refer to *Hindustan Plywood Co. V. Naresh Kumar Chadha:* 2011 SCC OnLine Del 861. In that case, the landlord had claimed that the last admitted rate of rent was Rs.4,026/- per month and, therefore, the tenant had no protection under Delhi Rent Control Act, 1958. The suit for possession was decreed in favour of the landlord. The stand of the tenant was, however, *inter alia*, to the effect that the rent was illegally enhanced from Rs.1200/- per month to Rs.2,500/- per month and, therefore, such enhanced rent was neither payable nor could be enhanced further. The above said contention was rejected while holding as under:-

> *"7. I am unable to agree with any of the contentions as raised by the learned counsel for the appellants. No doubt, the provision of Section 6A of the Delhi Rent Control Act provides for*

> *enhancement of rent by 10% after every 3 years, subject to issuance of an appropriate notice, however, this provision only lays down the upper limit of enhancement after 3 years in case there is opposition by the tenant to the enhancement of rent. Dehors the provision of Section 6A, parties can surely contractually agree to pay a higher rent. This was so done in the facts of the present case and enhanced rents were duly paid in terms of the agreement and from July 1992 to 1st April, 2007. I, therefore, do not find any basis in the argument raised on behalf of the appellants that the enhanced rent was not payable because of Section 6A of the Delhi Rent Control Act, 1958. While on this point I must advert to the fact that the appellants argued before the trial court, though it was not argued before me, that there was undue pressure or coercion for increase of the rent. This argument was rightly rejected by the trial court because the trial court has found as a matter of fact that the rent was increased not only once but continuously without any letter of protest or complaint by the appellants to any authority, much less under the Delhi Rent Control Act, 1958. The trial court has also referred to the provision of Section 13 of the Delhi Rent Control Act, and as per which, if any excess rent is paid, then the limitation of one year is provided to claim refund of the amounts paid allegedly towards rent not payable."*

58. Consequently, it becomes crystal clear that it was neither appropriate nor legally permissible for the tenant to have backtracked from his own admission. Such undertaking given by him is not in violation of any statutory provision. It was a voluntary act of the tenant which he kept on adhering to, all along. If any tenant, without any duress or coercion and of his own sweet-will and volition, volunteers to enhance the rent, such increase falls within four corners of *lawful increase* and would not disregard or defy the legislative intention specified under Section 6A of DRC Act, 1958.

59. Resultantly, the impugned order dated 06.10.2021 passed by the learned Rent Control Tribunal is set aside and the order dated 19.04.2018 passed by the learned Rent Controller is restored.

60. As a necessary corollary, the modified order dated 19.04.2018 passed under Section 15(1) of DRC Act also comes alive and tenant is directed to

pay or deposit the rent in accordance thereof within one month from today.

61. The parties shall appear before the learned Rent Controller on 02nd December, 2024.

62. The learned Rent Controller would assess whether the tenant is entitled to the benefit of Section 14(2) of DRC Act, 1958 or not.

63. The petition stands allowed in the aforesaid terms.

(MANOJ JAIN)
JUDGE

OCTOBER 25, 2024/*sw*