

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1579 OF 2020  
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 1480 OF 2017)

AMRIT MEHTA & ORS. . . APPELLANT(S)

VERSUS

NORTH DELHI MUNICIPAL CORPORATION . . . RESPONDENT(S)

O R D E R

Leave granted.

2. Being aggrieved by the judgment and order dated 26.09.2016 passed by the High Court of Delhi at New Delhi in Regular Second Appeal No. 101 of 2012 in and by which the High Court has allowed the Second Appeal thereby dismissing the suit filed by the appellants for injunction against the respondent-North Delhi Municipal Corporation, the above appeal is filed.

3. The respondent-NDMC has taken the suit property from its erstwhile owner on rent and was running a school. The respondent was the tenant in the suit property at monthly rent of Rs.97.96 from the earlier owner Satish Chandra Mathur.

4. The appellants claimed to be owners of the property having purchased the same by the sale deed dated 17.04.1997. According to the appellants, the respondent has shifted the school from the said premises long ago and no longer running the school in the suit premises. According to the appellants, since the respondent did not require the premises and did not continue in possession, the appellants came in possession of the property (which is disputed by

NDMC contending that the appellants have taken possession forcefully). It is claimed by the appellants that the respondent has failed to pay the rent from 01.05.1997 to 31.08.1997 and began to interfere with the possession. After issuing legal notice to the respondent - NDMC on 27.01.1998, the appellants have filed the suit for permanent injunction restraining NDMC not to interfere with their possession and for recovery of arrears of rent of Rs.391.84. The respondent-N.D.M.C. appeared and contested the suit.

5. Upon consideration of the oral and documentary evidence adduced by the parties, the Trial Court vide order dated 31.10.2011 partly decreed the suit and held that the appellants are entitled to recovery of rent of Rs.391.84 only from the respondent. Insofar as the prayer for relief of permanent injunction, the Trial Court held that the appellants are not entitled for the relief of permanent injunction as they were required to file the suit for eviction.

6. Being aggrieved, the appellants had filed an appeal before the First Appellate Court. The First Appellate Court vide judgment dated 16.02.2012 allowed the appeal filed by the appellants and held that the appellants are entitled to the permanent injunction also. The First Appellate Court held that the photographs of the suit premises showed that the property was not in a good condition. The First Appellate Court further held that they were in possession of the premises since 1997. Referring to the evidence of PW-1, the First Appellate Court held that the keys of the suit premises available with the watchmen of the respondent were never handed over to the appellants. On those findings, the First Appellate

Court reversed the judgment of the Trial Court and granted relief of permanent injunction also in addition to the recovery of rent. Being aggrieved, the respondent-N.D.M.C filed the Second Appeal before the High Court which came to be allowed by the impugned judgment.

7. The High Court held that merely because of the suit premises are in dilapidated state and not used would not mean that the tenancy of the suit premises would be abandoned.

8. The High Court further held that mere non user of the premises would not amount to abandonment of the premises, *inter alia*, on various findings, the High Court set aside the judgment of the First Appellate Court and restored the judgment of the Trial Court holding that the appellants are entitled only for recovery of Rs. 391.84 towards arrears of rent. Being aggrieved, the appellants have preferred this appeal.

9. We have heard Mr. Ravinder Sethi, learned senior counsel appearing on behalf of the appellants as well as Mr. Ajay Bansal, learned counsel appearing on behalf of the respondent-N.D.M.C. and perused the impugned judgment and materials on record.

10. There is no dispute that the respondent-N.D.M.C came in possession as the tenant under the erstwhile owner Satish Chandra Mathur long ago on the monthly rent of Rs.97.96. It is also not in dispute that Satish Chandra Mathur had sold the property to the appellants by Sale Deed dated 17.04.1997. The appellants state that the tenancy of respondent-N.D.M.C was attorned by the previous owner by its letter dated 01.05.1997, which is strongly disputed by the learned counsel for the respondent-N.D.M.C.

11. Having regard to the photographs and other evidence produced by the parties, the First Appellate Court rightly held that the property is in a dilapidated condition and it cannot be in dispute that it is not in use for the purpose for which it was let out. The manner in which the appellant came into possession loses relevance. Hence, without going into the merits of the rival contentions of the parties as to the abandonment, since the respondent - N.D.M.C. is no longer running the school, we deem it appropriate to set aside the judgment of the High Court and restore the judgment of the First Appellate Court. Taking note of the fact that the appellants are in possession of the property, the injunction as granted shall stand affirmed and the appellants would be entitled to retain the property without interference. Insofar as relief of decree for recovery of rent, in the facts and circumstances of the case, we hold that the appellants shall not seek to recover the amount ordered by the Trial Court nor shall there be any monetary claim against each other.

12. The appeal is, accordingly, disposed of. There shall be no order as to costs.

..... J.  
[R. BANUMATHI]

..... J.  
[S. ABDUL NAZEER]

NEW DELHI  
13TH FEBRUARY, 2020

..... J.  
[A.S. BOPANNA]

ITEM NO.13

COURT NO.5

SECTION XIV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 1480/2017  
(Arising out of impugned final judgment and order dated 26-09-2016  
in RSA No. 101/2012 passed by the High Court Of Delhi At New Delhi)

AMRIT MEHTA &amp; ORS.

Petitioner(s)

VERSUS

NORTH DELHI MUNICIPAL CORPORATION

Respondent(s)

Date : 13-02-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI  
HON'BLE MR. JUSTICE S. ABDUL NAZEER  
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Ravinder Sethi, Sr. Adv.  
Mr. Puneet Sharma, AOR

For Respondent(s) Mr. Ajay Bansal, Adv.  
Mr. Madan Mohan, Adv.  
Ms. Archana Sharma, Adv.  
Mr. B.C. Santosh Kumar, Adv.  
Mr. Lokendra Kumar, Adv.  
Mr. Praveen Swarup, AOR  
Smt. Veena Bansal, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.  
Pending application(s), if any, shall also stand disposed

of.

(MADHU BALA)  
AR-CUM-PS  
(Signed order is placed on the file)

(BEENA JOLLY)  
BRANCH OFFICER