

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).10338/2018

(Arising out of Special Leave Petition(C) No(s). 36887/2016)

SHRI PEAREY LAL(DEAD) NOW REPRESENTED BY LRS. Petitioner(s)

VERSUS

SHRI JIA LAL-PUJARI (DEAD)  
NOW REPRESENTED BY HIS LRS & ORS. Respondent(s)

WITH

CIVIL APPEAL NO(S). 10339-10341/2018

(Arising out of Special Leave Petition(C) No(s).2660-2662/2018)

O R D E R

Leave granted.

These appeals are filed against the common judgment dated 04.08.2016 passed by the High Court of Delhi in Regular Second Appeals which were preferred by the appellant(s) herein. For the sake of convenience we take note of the facts from the appeal arising out of Special Leave Petition (C) No.36887 of 2016.

The dispute pertains to the sweet shop which the appellant(s) is having in the precinct of Kalkaji Mandir, Kalkaji, Delhi. This shop comprises of two rooms and two varandas. The appellant had filed Suit No.386 of 1976 titled as "Pearey Lal Vs. Ram Nath" seeking declaration to the effect that he is holding leasehold rights in the aforesaid shop and, therefore, he is a protected tenant. He had also claimed relief of permanent injunction seeking

restraint against the defendant(s) (respondent(s) herein) from dispossessing the appellant(s) from the shop (hereinafter referred to as 'the suit premises'). It was pleaded in the plaint filed by the appellant(s) that he was inducted as tenant sometime in the year 1963 and had been paying rent to baridars. Ad-interim injunction was granted to the appellant(s) restraining the respondent(s) from dispossessing the appellant(s) which was made absolute till the disposal of the suit. The defendant(s) had taken the plea that the appellant(s) was only a licensee in the suit premises and had no right to stay therein. Various issues were settled on which evidence was led by both the parties. The original plaintiff namely Pearey Lal passed away on 27.05.1989 during the pendency of the suit and his legal representatives including Radhey Shyam Sharma were brought on record.

After arguments the Trial Court passed the judgment dated 31.01.2012 dismissing the suit categorically recording a finding that the appellant(s) was only a licensee and not a lessee. However, it was also found as a fact that the appellant(s) was in settled possession of the suit premises. The injunction was refused only on the ground that the appellant(s) had not filed any site plan. Regular First Appeal was filed by the appellant. Cross objections were also filed by the legal representatives of the defendant no.10. Other defendants had accepted the judgment of the Trial Court and did not file any appeal. Regular First Appeal as well as cross objections were dismissed by the learned Additional District Judge vide judgment dated 01.04.2013. Regular Second

Appeal there-against was preferred by the appellant(s) which has been dismissed vide impugned judgment dated 04.08.2016.

Mr. C.A. Sundram, learned senior counsel appearing for the appellant(s), made one main submission on the basis of facts which have been established before the Trial Court and affirmed by the Additional District Judge as well as by the High Court. He accepted the position that the appellant is only a licensee. However, the submission was that the finding of fact was also that the appellant was in possession of the suit premises right from the year 1963. On this basis, he argued that even as a licensee the appellant could not have been dispossessed without the process of law. This proposition has not been disputed by the learned counsel for the respondent(s).

Accordingly, these appeals are partly allowed holding that the appellant(s) is a licensee, decree of injunction is passed in favour of the appellant to the extent that the appellant shall not be dispossessed without the process of law meaning thereby the respondent(s) shall be permitted to recourse of legal proceedings in this behalf. We may record that as and when such a suit is filed the same shall be adjudicated on its own merits. No order as to costs.

.....J.  
[A.K. SIKRI]

.....J.  
[ASHOK BHUSHAN]

NEW DELHI;  
OCTOBER 03, 2018.

ITEM NO.11

COURT NO.4

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). 36887/2016

(Arising out of impugned final judgment and order dated 04-08-2016 in RSA No. 92/2013 passed by the High Court Of Delhi At New Delhi)

SHRI PEAREY LAL(DEAD) NOW REPRESENTED BY LRS. Petitioner(s)

VERSUS

SHRI JIA LAL-PUJARI (DEAD)  
NOW REPRESENTED BY HIS LRS & ORS. Respondent(s)

I.A. NO. 1/2016-CONDONATION OF DELAY IN REFILEING  
I.A. NO. 3/2017- PERMISSION TO APPEAR AND ARGUE IN PERSON. )

WITH  
SLP(C) No. 2660-2662/2018 (XIV)

Date : 03-10-2018 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s) Mr. C.A. Sundram, Sr. Adv.  
Mr. Debesh Panda, Adv.  
Mr. Gaurav Sharma, Adv.  
Ms. Pooja Sharma, Adv.  
Mr. Abhishek Gupta, Adv.  
Mr. Anshul Goyal, Adv.  
Mr. Rameshwar Prasad Goyal, AOR  
Mr. Debesh Panda, AOR

For Respondent(s) Mr. Arun K. Sinha, AOR  
Mr. Sumit Sinha, Adv.  
Mr. Sinha Shrey Nikhilesh, Adv.

Mr. Anil Nauriv, Adv.  
Ms. Sumita Hazarika, AOR  
Mr. Prabhas Chandra, Adv.  
Ms. Ipsita Behura, Adv.

Mr. Harish Bhardwaj  
Mr. R.K. Bhardwaj  
Caveator-in-person

Mr. Dheeraj Bhardwaj, Adv.  
Mr. Neeraj Bhardwaj, Adv.  
Ms. Sunita Bhardwaj, Adv.  
Mr. Satyendra Kumar, AOR

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

Leave granted.

The appeals are partly allowed in terms of the signed order.

Pending application(s), if any, stands disposed of  
accordingly.

(ASHWANI THAKUR)  
COURT MASTER (SH)

(RAJINDER KAUR)  
BRANCH OFFICER

(Signed order is placed on the file)