

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1589 OF 2020  
(Arising out of SLP (C) No.3180 of 2020)

MITENDRA PAL SINGH SOLANKI

Appellant (s)

VERSUS

SHIKHA TOMAR & ORS.

Respondent(s)

O R D E R

Leave granted.

This appeal takes exception to the judgment and order dated 23.10.2019 passed by the High Court of Delhi at New Delhi in C.M. (M) No. 1536 of 2019, whereby the High Court allowed the application preferred by the plaintiffs-respondent Nos. 1 and 2 herein to direct the appellant-defendant No.1 to pay a sum of Rs.8,000/- (Eight Thousand) per month with effect from December, 2008 to April, 2019 for occupying the suit premises.

The High Court has noted that the appellant-defendant No.1 had already vacated the suit premises on 15.09.2010 and handed over possession thereof to the defendant No.2-respondent No. 3 herein, from whom the premises were taken by the appellant-defendant No.1 on rental basis.

It has also come on record that the appellant-defendant No.1 was paying compensation to defendant No. 2 for occupying the suit premises during the relevant period until 15.09.2010.

The suit filed by the plaintiffs-respondent Nos. 1 and 2 is for grant of a decree of possession of the suit premises.

In our opinion, the High Court committed manifest error in directing the appellant-defendant No.1 to pay the monthly compensation in respect of suit premises to the plaintiffs-respondent Nos. 1 and 2, in terms of impugned order. First, there is no lis between plaintiffs-respondent Nos. 1 and 2 and appellant-defendant No.1. Second, the appellant-defendant No.1 asserted that he was not in occupation of the premises and he returned possession thereof to defendant No.2 who had inducted the appellant. Third, it cannot be assumed at this interim stage that the appellant-defendant No.1 is liable to pay the compensation to the plaintiffs. These are all matters which will have to be considered by the Trial Court in the pending suit.

It will be open to the plaintiffs-respondent Nos. 1 and 2 to pursue such relief(s), which are already set out

in plaint before the Trial Court, including for grant of mesne profits in the event the decree of possession is passed in favour of the plaintiffs-respondent Nos. 1 and 2. That relief be considered on its own merits and in accordance with law, including to fasten proportionate responsibility on the appellant-defendant No. 1, if the fact situation so warrants.

We are not expressing any opinion either way on the merits of that contention.

Learned counsel for the plaintiffs-respondent Nos. 1 and 2 has invited our attention to the observation made by the High Court in reference to stay operating against appellant-defendant No.1.

Our reading of the interim relief is limited to restraining the defendants from parting with possession or creating third party right or interest on the said premises during the pendency of this suit. There is no express stay to restrain the appellant-defendant No.1 from vacating the said premises, which he has already done as back as on 15.09.2010.

Accordingly, this appeal must succeed. The impugned judgment and order is set aside with liberty to the plaintiffs to pursue appropriate relief against the

defendants including for mesne profits for the relevant period. The appeal is allowed in the above terms.

Pending applications, if any, stand disposed of.

.....J  
(A.M. KHANWILKAR)

.....J  
(DINESH MAHESHWARI)

New Delhi  
February 14, 2020

ITEM NO.24

COURT NO.6

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). 3180/2020

(Arising out of impugned final judgment and order dated 23-10-2019 in CM(M) No. 1536/2019 passed by the High Court Of Delhi At New Delhi)

MITENDRA PAL SINGH SOLANKI

Petitioner(s)

VERSUS

SHIKHA TOMAR &amp; ORS.

Respondent(s)

(FOR ADMISSION and I.R. )

Date : 14-02-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR  
HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Petitioner(s)

Mr. Baban Kr. Sharma, Adv.  
Dr. Ashutosh Garg, AOR

For Respondent(s)

Mr. Sudhanshu Tomar, Adv.  
Mr. Mukesh K. Verma, Adv.  
Mr. Prakash Yadav, Adv.  
Mr. Jagdish Prashad Singh, Adv.  
Mr. Yadav Narendra Singh, AOR

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

Leave granted.

The appeal is allowed in terms of the signed order.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)  
COURT MASTER (SH)

(VIDYA NEGI)  
COURT MASTER (NSH)

[Signed order is placed on the file]