

IN THE COURT OF SH. SUSHIL ANUJ TYAGI
SCJ/RC(WEST), TIS HAZARI COURTS, DELHI

CS. No.1548/2019

In the matter of :

Smt. Madhu Bajaj
W/o Late Sh. Ramesh Bajaj,
R/o BG-2/18D, LIG,
Paschim Vihar,
New Delhi-110063.

.....Plaintiff

VERSUS

Smt. Rekha
W/o Sh. Om Prakash,
R/o BG-2/18E, Top Floor,
Paschim Vihar,
New Delhi-110063.

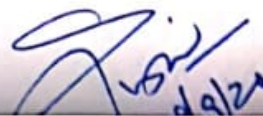
.....Defendant

Date of filing of the suit	:	09.10.2019
Date of reserving judgment	:	23.09.2020
Date of pronouncement	:	28.09.2020

J U D G M E N T

I. This is a suit filed by the plaintiff against the defendant for Possession, Recovery of Arrears of Rent and Damages.

2. Brief facts of the case as per the plaintiff are that the property in question i.e BG-2/18E, Top Floor, Paschim Vihar, New Delhi-110063, consisting of 2 bedrooms, 2 washrooms and 1 kitchen on 4th floor was rented out to the defendant on terms and conditions as agreed in Rent Agreement dated 25.03.2017 from 21.01.2017 to 21.01.2018 on monthly rent @ Rs.10,000/- excluding electricity and water charges and security amount of Rs.20,000/-. The defendant started residing at the tenanted premises with her husband and resided till December, 2018. It was agreed between the parties that the tenancy period will be extended after mutual consent of both the parties subject to increase in rent @ 5% after 1 year. The defendant has not paid rent since December, 2018. Whenever, the plaintiff demanded rent, electricity and water charges from the defendant, she outrightly refused to pay the same and that the electricity consumption of the said tenanted premises ranges between Rs.5000/- to Rs.6000/- per month. The defendant had admitted in a handwritten letter in the presence of RWA President Varun Chauhan and Sh. Nishant Sood that she had not paid rent and electricity charges since December 2018. The defendant also undertook to vacate the said rented premises alongwith her belongings by 07th of July, 2019 but she has not vacated the said rented premises till date. The plaintiff has also observed some illegal use of drugs going on in

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the tenanted premises. The plaintiff sent a legal notice dated 06.08.2019 to the defendant for termination of the tenancy and for delivering vacant possession of the tenanted property and also for payment of arrears of rent within 15 days, however, the defendant did not reply to the legal notice. Further, the tenancy in defendant's favour had already expired on 21.01.2018 but she has not yet handed over the vacant and peaceful possession of the said premises to the plaintiff.

3. The defendant was served through affixation on 23.10.2019. However, neither the defendant was appeared nor any Written Statement was filed on behalf of the defendant. Hence, vide order dated 03.12.2019, the defendant was proceeded ex-parte.

4. In support of her case, the plaintiff got examined herself as PW-1, who during her examination-in-chief relied upon various documents i.e. Ex.PW-1/1 to Ex.PW-1/9. Ex-parte PE was closed on 30.01.2020.

5. Final arguments heard. Judicial record perused.

6. The counsel for the plaintiff relied upon the judgment of the

Hon'ble Supreme Court of India titled as **Bhagwati Prasad Vs. Chandramaul**, AIR 1966 SC 735 wherein it was held that "Once it is held that the plaintiff is entitled to eject the defendant, it follows that from the date of decree granting the relief of ejectment to the plaintiff, the defendant who remains in possession of the property despite the decree, must pay mesne profits and damages for use and occupation of that property until it is delivered to the plaintiff. A decree of ejectment in such a case must be accompanied by a direction for payment of future mesne profits for damages."

7. As the defendant failed to contest the suit, the testimony of Smt. Madhu Bajaj (PW-1) has remained un-rebutted. Further, there is no reason to disbelieve the uncontroverted and unchallenged testimony of PW-1, which is based upon documentary evidence. The plaintiff has been able to prove her case. Hence, **the suit of the plaintiff is decreed with following reliefs :-**

(i) A decree of possession is passed in favour of the plaintiff and against the defendant directing the defendant to handover the peaceful and vacant possession of the suit property i.e **BG-2/18E, Top Floor, Paschim Vihar, New Delhi-110063**, as shown in red colour in the site plan.

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(ii) A decree of arrears of rent of Rs.1,65,000/- alongwith interest pendentelite @ 6% P.A, is passed in favour of the plaintiff. The plaintiff shall also be entitled to future interest @ 6% P.A till the realization of the decretal amount.


(iii) A decree of mesne profits/damages @ Rs.10,000/- per month from the date of filing of the suit till recovery of the possession.

Decree-sheet be prepared accordingly.

No order as to costs.

File be consigned to record room, after due compliance.

**PRONOUNCED IN THE OPEN COURT
ON 28th of September, 2020.**


(SUSHIL ANUJ TYAGI)
SCJ/RC(WEST)/ DELHI