

**(Equivalent Citation:- 2012(2) AD(Delhi) 429)**  
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**187 (2012) Delhi Law Times 548**

**Delhi High Court**

**Valmiki J. Mehta, J.**

**SHRI RADHAKRISHAN TEMPLE TRUST MAITHAN, AGRA—Appellant**

**versus**

**HINDCO ROTATRON PVT. LTD. & ORS.—Respondents**

*RFA No. 40 of 2010—Decided on 20.12.2011*

**(i) Transfer of Property Act, 1882 — Section 106 [As amended by (Amendment) Act, 2002] — Civil Procedure Code, 1908 — Order 7 Rule 7 — Delhi Rent Control Act, 1958 — Termination of Tenancy — Once 15 days' notice period is given to tenant to vacate premises, suit for possession must be decreed — Tenant, whose tenancy is not protected by DRC Act, cannot urge because of lack of termination of monthly tenancy by proper notice, suit for possession filed by landlord against tenant liable to be dismissed — That on the date of filing of suit, defendant/tenant was not unauthorised occupant — Courts are empowered to take notice of subsequent events under Order 7 Rule 7, CPC to shorten the litigation — It is apposite that this Court applies principle of Order 7 Rule 7, CPC in view of admitted facts and keeping in mind intention of Legislature in amending Section 106 of Transfer of Property Act by Act 3 of 2003 — Though suit for possession will have to be decreed because tenant has 15 days notice to vacate premises, *mesne* profits could be payable from the date from which it is held that tenancy stands terminated by means of requisite knowledge to tenant to vacate premises having notice period of 15 days — Impugned judgment and decree set aside by decreeing suit for possession filed by appellant/plaintiff for suit/tenanted premises.**

**[\[Paras 4, 5, 6, 7, 10\]](#)**

**Cases referred:**

**1. *P.S. Jain Company Ltd. v. Atma Ram Properties Ltd.*, [65 \(1997\) DLT 308 \(DB\)](#). (Relied) [\[Para 2\]](#)**

**2. *Nopany Investments (P) Ltd. v. Santokh Singh (HUF)*, [146 \(2008\) DLT 217 \(SC\)=I \(2008\) SLT 195](#). (Relied) [\[Para 8\]](#)**

**3. *M/s. Jeevan Diesels & Electricals Ltd. v. M/s. Jasbir Singh Chadha (HUF) & Anr.*, [182 \(2011\) DLT 402](#). (Relied) [\[Para 9\]](#)**

**4. *Hardesh Ores (P) Ltd. v. Hede & Company*, [VI \(2007\) SLT 597=III \(2007\) CLT 161 \(SC\)](#). (Relied) [\[Para 15\]](#)**

**5. *Shipping Corporation of India Ltd. v. Machado Brothers and* [\[Para](#)**

*Others*, [110 \(2004\) DLT 649 \(SC\)](#)=[II \(2004\) SLT 958](#)=II (2004) CLT [16/112 \(SC\)](#). (*Distinguished*)

(ii) Civil Procedure Code, 1908 — Order 7 Rule 7 — Relief to be specifically stated — Courts are always empowered to take notice of subsequent events under Order 7 Rule 7, CPC to shorten the litigation — Provision of Order 7 Rule 7, CPC has been extensively applied by Supreme Court in litigation between landlord and tenant under different Rent Control Acts, in petitions pertaining to eviction on ground of *bona fide* necessity — Object of taking notice of subsequent events is to shorten the litigation and to do substantive justice.

[\[Paras 6, 7\]](#)

(iii) Transfer of Property Act, 1882 — Section 106(3) (As amended by Amendment Act 3 of 2003) — Notice — Validity — Notice shall not be deemed to be invalid merely because period mentioned therein falls short of period specified under Section 106(3), where suit or proceeding is filed after expiry of period mentioned in that sub-section — By virtue of amended Section 106 of Act every tenant is put to notice that in case landlord is legally entitled to ask tenant to vacate premises, tenant shall vacate premises as long as he has 15 days notice period to vacate tenanted premises.

[\[Paras 4, 5\]](#)

(iv) Transfer of Property Act, 1882 — Section 106(3) — Civil Procedure Code, 1908 — Order 7 Rule 7 — Notice — Termination of tenancy — Suit for possession cannot be defeated merely because there is no valid termination of tenancy prior to filing of suit inasmuch as service of summons in suit can be taken as a notice terminating tenancy.

[\[Para 12\]](#)

(v) Limitation Act, 1963 — Article 65 — Transfer of Property Act, 1882 — Section 106(3) — Notice — Termination of Tenancy — Limitation — Period of limitation of 12 years only begins when title adverse to appellant/landlord/plaintiff is claimed — Once respondents/defendants/tenants admit that they are tenants it cannot be said suit is barred by time.

[\[Para 13\]](#)

***Result: Appeal allowed.***

**Counsel for the Parties:**

For the Appellant : *Mr. R.M. Sinha and Ms. Namita Sinha, Advocates.*

For the Respondent No. 1 : *Mr. Saurabh Upadhyay, Advocate.*

For the Respondent No. 2 : *Mr. Rajesh Rattan, Advocate.*