APPELLATE CIVIL

D. Falshaw, C. J., and Mehar Singh, J.

DHAN RAJ JAYANA,—Appellant.

versus

SAT PARKASH SINGH,—*Respondent.*

R. F. A. 32-D of 1957.

1964

March, 19th.

Delhi and Ajmer Rent Control Act (XXXVIII of 1952) —S. 13(2)—"Costs of the suit"—Meaning of—Whether refer to the whole suit as laid or only to suit for recovery of possession on the grounds that follow the proviso to sub-sectin (1) of section 13—Power to extend time by Court for payment of arrears of rent—Whether can be exercised only on first hearing or later too—Arrears of rent payable in case time for payment extended by Court—Whether upto the date of first hearing or upto the extended date—Registration Act (XVI of 1908)—S. 49—Unregistered lease-deed—Whether can be considered to prove the rent settled between the parties.

Held, that the expression 'any suit' in the proviso to sub-section (1) of section 13 of the Delhi and Ajmer Rent Control Act, 1952, refers to suit for recovery of possession on the grounds that follow the proviso. That expression does not refer to any other suit, nor can it be read to cover any additional prayer in a suit in which eviction is sought on the grounds under the proviso to sub-section (1) of section 13. The words 'the suit' as they appear in sub-section (2) of section 13 have reference only to such suit as is referred to in the proviso to sub-section (1). The costs of the suit referred to in sub-section (2) of section 13 are costs not of the suit as laid by the plaintiff in Court including all kinds of prayers, but are only confined to that part of the suit which comes directly and strictly under sub-section (1) of section 13 for eviction of the tenant.

Held, that the words "or within such further time as may be allowed by the Court" in sub-section (2) of section 13 of the Act, give power to the trial Court, having regard to the justice of the facts and circumstances of the case, to allow a defendant-tenant time to pay up arrears and costs of the suit even after the first day of the hearing of the suit, and this is not confined to a prayer made on the first day of the hearing of the suit, and the power may be exercised on a subsequent date in a suitable case on a proper cause being shown.

Held, that in case the time for payment of arrears of rent is extended by the court, the tenant has to pay the arrears of rent due upto the extended date and not only upto the date of the first hearing. If the tenant pays the rent on the first date of hearing, he has to pay it upto that date.

Held, that an unregistered lease-deed is not admissible in evidence nor can it be taken into consideration in evidence to prove the rent settled between the parties by its terms for that is not a matter of collateral nature to the main substance of the document.

Regular First Appeal from the decree of the Court of Shri Jagmohan Lal Tandon, Sub-Judge, 1st Class, Delhi, doted the 21st day of February, 1957, granting the plaintiff a decree for Rs. 6,890.75 n.P. against the defendant, dismissing the plaintiff's suit for ejectment of the defendant and leaving the parties to bear their own costs.

R. S. NARULA AND SUKHBIR PERSHAD, ADVOCATES, for the Petitioner.

H. HARDY AND K. DAYAL, ADVOCATES, for the Respondent.

JUDGMENT.

Mehar Singh, J.

MEHAR SINGH, J.—This is an appeal by the plaintiff Dhan Raj Jayna, from the judgment and decree, dated February 22, 1957, of the First Class Subordinate Judge of Delhi, partly dismissing and partly decreeing his claim against the defendant, Sat Parkash Singh.

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The suit of the plaintiff was for eviction of the defendant from the premises and for recovery of Rs. 11,180 as arrears of rent. The learned Judge dismissed the claim of the plaintiff for eviction of the defendant but decreed his claim for arrears of rent to the tune of Rs. 6,890-12-0, leaving the parties to be their own costs.

It is one property but four portions of it are described as (a), (b), (c) and (d) in paragraph 2 of the plaint. The first three portions were taken on rent by the defendant on January 1, 1944, and the fourth on July 1, 1944. The total rent for all the four portions settled between the parties was Rs. 478-2-0 per mensem, but it was split over the portions in this manner : Rs. 150 for portion (a), Rs. 100 for portion (b), Rs. 125 for portion (c), and Rs. 75 for portion (d). This makes a total amount of Rs. 450 per mensem. To this is added Rs. 28-2-0 as house-tax, which also the defendant agreed to pay. Up to April 30, 1947, payment of rent according to this arrangement was made by the defendant. On April 17, 1947, however, the plaintiff served a notice under section 8 of the Delhi and Ajmer-Merwara Rent Control Act, 1947 (Act 19 of 1947), on the defendant for enhancement of the rent from Rs. 450 to Rs. 652-8-0 per mensem, with Rs. 40-12-0 as the amount of house tax, a total of Rs. 693-4-0 per mensem, pointing out that the defendant was liable to pay this rent with effect from May 1, 1947. This notice was received by the defendant on April 22, 1947.

The plaintiff claims that after the receipt of that notice the defendant accepted the position that he was liable to pay Rs. 693-4-0 per mensem but asked for rebate for a temporary period which the plaintiff says he agreed on conditions of the defendant (a) paying monthly rent regularly and (b) keeping good relations with him. The rebate was 13½ per cent on the amount stated which brought it down to Rs. 600 per mensem

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which in turn was split as Rs. 564-12-0 per mensem being the rent and Rs. 35-4-0 house tax. To this the position taken by the defendant has been that the plaintiff was not entitled to enhance the rent, but in spite of that he says that he agreed to pay to the plaintiff Rs. 600 per mensem for a period of five years ending on April 30, 1952. He further says that the condition about good relation was merely renewed as a formality to please the plaintiff as the latter made it condition precedent and was not intended to be life long. He does not show how Rs. 600 were split for the purpose of rent and house-tax. He was previously up to April 30, 1947, paying in all, both rent and house-tax, Rs. 478-2-0 per mensem. How he came to raise it to Rs. 600 is not satisfactorily explained by him. There seems, therefore, to be truth in the averment of the plaintiff on this aspect of the case between the parties. Subsequently on July 14, 1948, the plaintiff withdrew the concession of rebate, of course saying that the defendant had not paid the rent regularly and had not maintained good relations. The notice was received by the defendant on July 15, 1948. So from August 1, 1948, the original enhanced rent of Rs. 652-8-0 per mensem with Rs. 40-12-0 as house-tax, a total of Rs. 693-4-0, became payable by the defendant. The defendant had agreed to pay house-tax which was at first $6\frac{1}{4}$ per cent and from October 1, 1949, it was enhanced by the Delhi Municipality to 10 per cent. On rent of Rs. 652-8-0 per mensem, at that rate the house-tax came to Rs. 65-4-0. The total of these amounts came to Rs. 717-12-0 per mensem.

The plaintiff claimed rent from August 1, 1948, to September 30, 1949, at the rate of Rs. 693-4-0 per mensem and from October 1, 1949 to April 30, 1952, at the rate of Rs. 717-12-0 per mensem. The amount for the first period comes to Rs. 9,705-8-0, and for the second period to Rs. 22,250-4-0, the total of the two

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amounts being Rs. 31,955-12-0. The defendant had been paying the plaintiff at the rate of Rs. 600 per mensem and while the plaintiff continued giving credit of the amounts received in the account of the defendant, every time some balance was shown as due from the defendant in the bill that he sent to the latter next time. The total of those payments was Rs. 25,800. The difference between the amounts of Rs. 31,955-12-0 and Rs. 25,800 comes to Rs. 6,155-12-0, which were the arrears claimed by the plaintiff down to April 30, 1952. The plaintiff by a notice made a demand for payment of the balance of arrears of rent and not receiving a favourable reply from the defendant he again served a notice on May 28, 1952, on the defendant terminating the tenancy from June 30, 1952. Two months rent at the rate of Rs. 717-12-0 per mensem comes to Rs. 1,435-8-0. The defendant did not give possession of the premises. The plaintiff calculated rent from July 1, to November 30, 1952, for a period of five months at the rate already stated, and reached the figure of Rs. 3.588-12-0. The total of the figures of Rs. 6,155-12-0, Rs. 1,435-8-0, and Rs. 3,588-12-0 comes to Rs. 11,180-0-0. This is the amount claimed by the plaintiff as arrears of rent from the defendant in the suit which he instituted on December 9, 1952.

This suit of the plaintiff is also under section 13 of the Delhi and Ajmer Rent Control Act, 1952 (Act 38 of 1952). for eviction of the defendant from the premises on a large number of grounds out of which, in so far as the present appeal is concerned, at the time of the arguments, only two grounds have been urged for consideration on the side of the plaintiff, and those grounds are that the defendant is liable to eviction (1) under section 13(1)(a) because he has neither paid nor tendered the arrears of rent due, and (2) under section 13(1)(k) because, notwithstanding previous notice, he has used or dealt with the premises in a

manner contrary to conditions imposed on the plaintiff by the Delhi Improvement Trust while giving him a lease of the land on which the premises are situate, inasmuch as he had made structural alterations in the building contrary to and beyond the sanctioned plan for it.

In this appeal the plaintiff seeks eviction of the defendant from the premises on the two grounds just stated and also a decree for an amount of Rs. 4,289-4-0 as arrears of rent over and above the amount stated in the decree of the trial court in this respect, this amount, now claimed in appeal, having been disallowed by the learned trial Judge. These are the only matters in controversy between the parties in this appeal to which arguments of the learned counsel have been confined.

Taking the second ground first, the learned counsel for the plaintiff has only relied upon two constructions referred to in paragraph 10(a) of the plaint for the purposes of this ground. The first construction to which objection is taken is a room made on the back, top roof, of the third floor, and the second construction, said to be objectionable, is the conversion of a portion of front verandah into rooms of shops. The tenancy began sometime in 1944. Plaintiff Dhan Raj Jayana has appeared as P.W. 1. He went to Assam and on his return, he says, his accountant informed him in his absence the defendant had added one room on the back side of the third storey and converted part of the front verandah into a room. Amin Lal (P.W. 12) was the accountant of the plaintiff up to 1948. He explains that when the plaintiff returned from Assam he gave information to him in July, 1948, about those two structural alterations in the premises. So, it is clear, that those two structural alterations were in

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existence in July 1948. It does not appear from the evidence of either that he had personal knowledge of this matter.

[His Lordship discussed the evidence and continued:]

The evidence of the construction of the two rooms, one on the third storey and another by the conversion of a part of the front verandah, is unsatisfactory and on that evidence the learned trial Judge has rightly come to the conclusion that structural alterations as referred to in clause 1(ii) of the lease deed, P. 127, of July 4, 1941, in favour of the plaintiff, have not been proved to have been made by the plaintiff contrary to the terms of the lease. The lease deed in paragraph 1(ii) says that "the lessee shall not make any alterations in and additions to the buildings so approved by the lessor either externally or internally without first obtaining the permission of the lessor in writing." There is not sufficient evidence to interfere with the conclusion of the learned trial Judge in this respect and to say that this part of the lease covenant between the plaintiff and the Delhi Improvement Trust has been contravened. This ground on the side of the plaintiff thus fails.

In so far as the first ground with regard to the question of non-payment of arrears of rent is concerned, at this stage the controversy between the parties is confined only to a period of five years between May 1, 1947, and April 30, 1952, for which period the plaintiff had first claimed enhanced rent of Rs. 652-8-0 per mensem plus Rs. 40-12-0 as house-tax, the total coming to Rs. 693-4-0 per mensem, and had then agreed to the reduction of this total figure to Rs. 600 per mensem, spliting up the amount between rent and house-tax as already explained. The plaintiff's case has been that this was contingent and conditional. The defendant not having

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lived up to the contingency and the conditions, he served notice on the defendant resuming the rebate of 13½ per cent allowed to him, and from May 1, 1947, the defendant became liable to pay the full amount of Rs. 693-4-0 per mensem. The defendant has relied upon a document marked by the learned trial Judge as 'X'. There is no definite date giben in it and at the bottom of it it is stated "July, 1947". However, the parties do not deny the execution of this document. It is in the form of a letter addressed by the defendant to the plaintiff. In the first two paragraphs it recites how the parties had come to an agreement, and in the remaining paragraphs, 3 to 13, the detailed terms of the lease are set out in the fashion in which such terms are given in an ordinary lease deed or rent note. At the end appear these words——— "We hereby agree and accept all the terms, i.e., 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, as described above." This letter is signed by both the parties, the plaintiff as well as the defendant. It is further signed by two witnesses. Apart from its form being that of a letter in the beginning, it is exactly in the form of a rent note or a lease deed. After considering the first two paragraphs of this the learned trial Judge was of the opinion that it is a memorandum of an already completed transaction and thus does not require registration. This, however, is not correct. It is in the very form in which the terms of a lease are couched; the last sentence in the document as reproduced above, the fact that both the parties have signed it, and the fact that two witnesses have signed it, leave no manner of doubt that it is not a memorandum of a past transaction but is in itself a lease deed intended by the parties to be operative as such. Otherwise there would not have been any point in obtaining signatures of both the parties to this document and in having witnesses' signatures on it, nor would there have been any point in the parties saying at the end that they were accepting all

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the terms detailed in this document. It is in the face of this that the learned counsel for the defendant found himself unable to support the approach of the learned trial Judge in this respect. This document is, therefore, not admissible in evidence. It is an unregistered lease deed which cannot be taken into consideration in evidence to prove the rent settled between the parties by its terms for that is not a matter of collateral nature to the main substance of the document: *Haladhar Pathak* v. *Madan Mohan Singha Choudhury* (1), and *Moti Sagar* v. *Dhanna Mal* (2). Once this document is out of the way, the claim of the defendant that for five years between May 1, 1947, and April 30, 1952, he was only liable to pay Rs. 600 per mensem and not Rs. 693-4-0 per mensem cannot possibly stand. He, therefore, fails in this aspect of his defence. The claim of the plaintiff for this period at the enhanced rate, as stated, after payments received, comes to Rs. 4,289-4-0, the amount disallowed by the learned trial Judge. To this amount the plaintiff is entitled.

The plaintiff claimed Rs. 11,180 as arrears up to November 30, 1952. The arrears from December 1, 1952, to February 28, 1953, come to Rs. 2,153-4-0. The total of these two figures is Rs. 13,333-4-0, which is the amount of arrears down to February 28, 1953. On March 11, 1953, some days before the first hearing of the suit, the defendant paid in Court Rs. 14,500 towards arrears of rent and costs of the suit. Now, it has been urged by the learned counsel for the plaintiff that the total costs of the suit come to Rs. 2,558 and that added to Rs. 13,333-4-0 make an amount of Rs. 15,891-4-0, with the result that the deposit of the defendant is short by Rs. 1,391-4-0. On the side of the defendant it is pointed out that not the costs of the whole suit but only costs of that part of the suit which relates to

(1) A.I.R. 1937 Cal. 499.
(2) A.I.R. 1922 Lah. 329.

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the prayer for ejectment are to be taken into consideration under sub-section (2) of section 13 of Act 38 of 1952.. If that is done, then the costs of the suit, confined only to the prayer for eviction, come to Rs. 1,260-6-0 and this added to Rs. 13,333-4-0 gives the amount of Rs. 14,593-10-0. In that case the defendant's deposit is short by Rs. 93-10-0 only.

The learned counsel for the plaintiff has pressed that under sub-section (2) of section 13 of the Act it is "the costs of the suit" that must be paid along with arrears of rent by the tenant, and he urges that the costs of the suit mean the costs of the suit as lodged by the plaintiff. Whereas the reply on the side of the defendant is that the words "costs of the suit" in sub-section (2) of section 13 are confined to a suit filed under section 13, whether any other prayer is added to it or not, and only the costs of the suit under section 13 are to be taken into consideration for the purposes of sub-section (2) of that section. The proviso to sub-section (1) of section 13 reads—

> "Provided that nothing in this sub-section shall apply to any suit or other proceeding for such recovery of possession if the court is satisfied,————";

and then follow clauses (a) to (1), the grounds of eviction. The expression 'any suit' in this proviso refers to suit for recovery of possession on the grounds that follow the proviso. That expression does not refer to any other suit, nor can it be read to cover any additional prayer in a suit in which eviction is sought on the grounds under the proviso to sub-section (1) of section 13. If this view is correct, it follows that the words 'the suit' as they appear in sub-section (2) of section 13 have reference only to such suit as is referred to in the proviso to sub-section (1). On this consideration the conclusion is clear that the costs of the

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suit referred to in sub-section (2) of section 13 are costs not of the suit as laid by the plaintiff in Court including all kinds of prayers, but are only confined to that part of the suit which comes directly and strictly under sub-section (1) of section 13 for eviction of the tenant. This view was taken by Bhandari, C.J. in *Roop Ram* v. *Chhida Ram,* Civil Revision No. 95-D of 1955, decided on December 15, 1955. No doubt the learned Chief Justice did not discuss the matter, probably because he found it to be obviously plain. Dulat, J. in *Nanak Chand* v. *Shrimati Devi,* Civil Revision No. 197-D of 1954, decided on August 24, 1954, took the contrary view giving no reason except to say that sub-section (2) plainly read means that the tenant must pay the costs of the suit which may have been filed by the landlord against him. These two cases were considered by Grover, J. in *Laxminarayan Raghunath Rai* v. *Jhabhu Mal,* Civil Revision No. 660-D of 1957, decided on October 30, 1959, and the learned Judge followed the opinion of Bhandari, C.J., rather than that of Dulat, J., following somewhat the same approach as I have indicated above. I respectfully agree with the opinions of Bhandari, C.J., and Grover, J.

On the view as above, the deficiency in the payment of the costs of the suit by the defendant is only Rs. 93-10-0. According to sub-section (2) of section 13. 'On the first day of the hearing of the suit or within such further time as may be allowed by the Court', the defendant has to pay the arrears of rent together with the costs of the suit if he is to escape eviction for non-payment of arrears under clause (a) to the proviso to sub-section (1). My immediate impression on reading this sub-section was that the words "or within such further time as may be allowed by the court" meant further time allowed by the Court when an application is made by the defendant, the tenant, on

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the first day of the hearing of the suit praying for allowance of time in this respect, and that if he should make any such prayer not on the first day of the hearing of the suit but instead on a subsequent date, such prayer did not fall within the words "or within such further time as may be allowed by the Court". This is what the learned counsel for the plaintiff has also pressed. However, on reconsideration I do not think that my first impression has been correct. Those words give power to the trial Court, having regard to the justice of the facts and circumstances of the case, to allow a defendant-tenant time to pay up arrears and costs of the suit even after the first day of the hearing of the suit, and this is not confined to a prayer made on the first day of the hearing of the suit, and the power may be exercised on a subsequent date in a suitable case on a proper cause being shown. *L. Narsingh Das* v. *Hakim Ghulam Nabi* (3), was a case under the Punjab Pre-emption Act of 1905. The learned Judges, following three Privy Council cases, among others, held that the words 'within a time to be fixed by the Court', or the like, do not preclude the Court from passing orders from time to time extending the period originally fixed by it, and this too even after the expiry of the time originally fixed by the Court. Similar opinion has been expressed in another Division Bench case. *Ram Rattan* v. *Raja Ram* (4). Thus, under sub-section (2) of section 13, within the scope of the words 'within such further time as may be allowed by the Court', the trial Court could extend time on an application by the defendant for payment of the arrears and costs of the suit. In *Bishan Sarup Bansal* v. *Ajit Parshad*, Civil Revision No. 68-D of 1955, decided on October 31, 1955. J. L. Kapur J.. *Vaidya Nath Aiyar* v. *Gopi Chand Sehgal*, Civil Revision No. 92-D of 1955, decided on December 15, 1955,

(3) 78 P.R. 1909
(4) A.I.R. 1923 Lah. 643.

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Bhandari C.J., *Indar Narain* v. *Ram Chand*, Civil Revision No. 104-D of 1957, decided on August 19, 1959, Grover J., and *Hari Chand* v. *Naina Ram*, Civil Revision No. 485-D of 1959, decided on November 16, 1961, Shamsher Bahadur J., extended time under sub-section (2) of section 13 of Act 38 of 1952, though in none of these cases there is discussion of the matter. All the same, the views of the learned Judges support what has already been said above in this respect. However. there is one case, *Radhey Sham* v. *Bala Pershad*, Civil Revision No. 300-D of 1959, decided on November. 20, 1959, in which Chopra J. held that once there was non-compliance with an order under sub-section (5) of section 13 of Act 38 of 1952, the Court has no discretion in the matter of consequence of such default on the part of the tenant. Default under sub-sections (5) of section 13 relates to striking of defence of the defendant. This case, however, does not affect the aspect of the matter that is now under consideration. The original Court then had power under sub-section (2) of section 13 of the Act to give time for payment of the arrears of rent with costs of the suit.

The arguments on the side of the plaintiff concluded on June 11. 1956. in the trial Court. The suit was adjourned to June 20, 1956. for arguments on the side of the tenant. In between. on June. 17, 1956, the defendant made the application P. 129 in which he said that he was willing and able to pay the excess amount and prayed that time may be extended for depositing the excess amount claimed by the plaintiff. which he stated in the application to be Rs. 1,391-5-0. He prayed for extension of time under sub-section (2) of section 13. This was opposed by the plaintiff in his reply of July 4, 1956 when the plaintiff pointed out that the application of the defendant was wholly misconceived and unwarranted by law. He also said that the

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Court had no jurisdiction to entertain the application at the stage at which it was made. The trial Court passed no order on this application of the defendant. There followed the five adjournments up to July 31, 1956, on which date the arguments on the side of the defendant were also concluded. Before the case could be decided, the order of the trial Court made on August 22, 1956, shows that it was transferred to the Court of another Subordinate Judge of the First Class. The arguments were then re-heard and the case was disposed of on February 21, 1957, in the manner already stated. The Subordinate Judge to whom the case was transferred did not pass any order either on the application, P 129, dated 17th June, 1956, so the application of the defendant for time to be allowed to pay up the difference claimed by the plaintiff to the extent of Rs. 1,391-5-0, remained undisposed of. It now turns out, as it has been shown above, that in fact, the only excess to which the plaintiff was entitled was an amount of Rs. 93-10-0. While there was delay on the part of the defendant in making this application, it is obvious that plaintiff was claiming an excess of more than ten times as against to what he in fact was entitled. The defendant had made deposit of a sum of Rs. 14,500, and it would be saying too much to impute to him contumacious conduct in refraining to pay the balance. He was anxious to pay the whole of the amount of arrears and the costs of the suit. He appears to have taken reasonable steps to do so and was prepared to pay any additional amount due. The plaintiff, however, was claiming something far in excess than what was really due to him. With all this, the trial Judge made no order on the application of the defendant.

On appeal the whole matter opens up and there is a re-hearing of the suit. So, the appellate Court on such re-hearing has the same power as the original

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Court. Consequently in this appeal on the application P. 129 of July 17, 1956, of the defendant, which has remained undisposed of, this Court in appeal can make a proper and just order under sub-section (2) of section 13 of Act 38 of 1952. The circumstances of the case, as the same have been detailed and explained above, provide a proper and just consideration of the basis of which the defendant be allowed extension of time under the provisions just stated to pay the balance of the costs of the suit, for his earlier payment of Rs. 14,500, on March 11, 1953, covers the arrears of rent then due and part of the costs of the suit. The amount that the defendant has to pay in addition is Rs. 93-10-0. He is allowed extension of time to make that payment within 30 days from the date of this judgment, excluding the date of this judgment. The learned counsel for the plaintiff has urged that under sub-section (2) of section 13 of the Act, the payment is to be of the arrears of rent "then due" which means due either on the first day of hearing of the suit, if the payment by the tenant is made on that day, or the extended date which comes within the scope of the words, within such further time as may be allowed by the Court. This is correct. He then prays that if the defendant is being now allowed time to make up the deficiency in the costs of the suit under sub-section (2) of section 13 by the 30th day after the date of this judgment then by that very date he must pay up the arrears of rent accumulated to that date or payable by the end of the month immediately preceding that date. It has been stated at the bar that under an order of this Court, during the pendency of this appeal, the defendant has been depositing Rs. 600 per mensem as rent. Making allowance for all the deposits duly made by the defendant, he will pay the balance of the arrears by the 30th day after the date of this judgment to have the benefit of the extended time, as allowed above, under sub-section

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(2) of section 13 to make up the deficiency in the costs of the suit to the extent of Rs. 93-10-0. If he does not pay up or if in addition to what he has already partly paid does not make up the deficiency in the rent by the 30th day after the date of this judgment, then his application for extension of time under sub-section (2) of section 13 to make up the deficiency in the costs of the suit to comply with that provision shall be taken to have been dismissed, and the result of that will be that the suit of the plaintiff against him shall then stand decreed on the ground of non-payment of rent and costs of the suit in accordance with sub-section (2) of section 13 of Act 38 of 1952. So that the allowance of the application of the defendant for this purpose is conditional on his paying up the rent due or if he has partly paid rent making up the deficiency in the rent due up to 30 days of the date of this judgment, or up to a date falling within those 30 days which is end of the month by which he normally pays rent.

The consequence is that subject to the conditions as has been stated above the appeal of the plaintiff against the decree of the trial Court seeking eviction of the defendant is dismissed, but his appeal for recovery of arrears of rent is acceptable to the extent of Rs. 4,289-4-0 as claimed in the grounds of appeal, so that his original claim of Rs. 11,180 in this respect stands decreed. The plaintiff has only been partly successful in his appeal. In the circumstances, the parties are left to their own costs.

D. FALSHAW, C.J.—I agree.

B.R.T.

1051 HC—1,000—8-8-64—C., P. & S., Pb., Chandigarh.