**GROUNDS FOR APPEAL**

1. That the respondent herein had filed an eviction petition against the appellants under Section 14(l)(a) of the Delhi Rent Control Act alleging therein that by an agreement to sell dated.................... he had agreed to sell the whole of the property to the appellants for a consideration of Rs..................... and besides the aforesaid consideration the appellants were liable to pay un-earned increase as also damages for mis-use of the floor which was being used for commercial purposes by ground floor tenant. It was further alleged that alongwith the agreement to sell the appellants also got a Rent Agreement signed on the same day i. e...................... from the respondent for letting out the first floor and second floor of the property at a rent of Rs..................... per month. It was further alleged that although the agreement was executed on..................... it was stated therein that the rent was with effect from .................... and the agreement was also purported to have executed on..................... The respondent further stated that he was not willing to execute the agreement alongwith the receipt but taking undue advantage, the appellant got the said agreement executed from him. The respondent claimed in the eviction petition that arrears of rent were due with effect from.................... and in spite of the demands of the respondent the same had not been paid by the appellants.

2. That the appellants filed their written statement to the Eviction Petition
and stated that the eviction petition has been filed on the basis of the Rent Agreement dated.................... as mentioned in para 14 of the petition but in the suit for Specific Performance of the Agreement to sell dated..................... the respondent had taken stand in his written statement that the said rent agreement was spurious and non-existance. He further alleged in the written statement that there was no rent advance or any security money given by the appellant to him on 16th August, 1980. The appellants further stated that as per the terms of the agreement to sell, the sale was to be completed latest by 31st January, 1981, and the appellants have already paid a sum of Rs.................... out of the total sale consideration of Rs..................... and therefore, the parties have intended that the sale will be completed by.................... or in any case in the month of..................... For this reason, the appellants stated that the respondent was not entitled to receive any rent after the expiry of .................... th day of.................... The appellants also filed a copy of the written statement which had been filed by the respondent in suit No..................... entitled as....................
which was filed by the appellants for specific performance of the agreement to sell against the respondent and was pending in this Hon’ble high Court. In the said written statement the respondent had taken definite stand that no Rent Agreement had executed on.................... th.................... or even thereafter. He had further stated that the alleged Rent Agreement was spurious and non-existance. The respondent also mentioned in the Written Statement that the vacant possession of the first floor and the Barasati floor was handed over to the appellants on..................... when the appellants made payment of Rs..................... and the Agreement to sell was executed. The respondent had further mentioned that the four Rent Receipts were also signed by him on..................... Rent Agreement and the four said receipts were signed because the parties expected upto..................... that the sale permission would be forth-coming from the Land & Development Office. In view of this categorical stand taken by the respondent in the suit for Specific Performance which has been filed by the appellants, it was submitted before the Addl. Rent Controller that of his own showing that there was no relationship of Landlord and Tenant between the parties and the eviction petition was liable to be dismissed and therefore no order could be passed under Section 15(1) of the Delhi Rent Control Act.

3. That after hearing the arguments of the parties and after seeing the plea which was taken by the respondent in his written statement as referred to above, the learned Additional Rent Controller deferred the passing of the order under Section 15(1) of the Delhi Rent Control Act vide his order dated....................

4. That the respondent filed an appeal against the said order which was heard and decided by the learned Rent Control Tribunal. The appeal was allowed and an order under Section 15(1) was passed by the Rent Control Tribunal directing the appellants to pay the arrears of rent and also to pay monthly rent month by month in terms of the order. The said order is illegal and contrary to the facts and the same is liable to be set-aside on the following amongst other grounds: —

(a) Because the learned Rent Control Tribunal has not considered the place taken by respondent in his written statement filed in the suit for specific performance pending in this Hon’ble Court. In the said written statement the plea of the respondent was that there was no rent agreement executed between the parties and the possession of the first floor and second floor had been given to the appellants after execution of the agreement to sell and on receipt of the sale consideration of Rs..................... These facts clearly prove that the appellant was not accepting any rent agreement and therefore he was estopped from filing the eviction petition against the appellants;

(b) Because the findings of the learned Rent Control Tribunal to the effect that the respondent has not disputed execution of the Rent Agreement as per the pleadings of the present case are not correct because the case of the appellants was that since in the suit for specific performance of the agreement to sell the respondent had taken plea that there was no rent agreement executed between the parties, he could not be allowed to blow hot and cold and eviction petition was liable to be dismissed;

(c) Because the learned Rent Control Tribunal has not appreciated the defence of the appellants. The learned Rent Control Tribunal has erred in holding that the respondent had disputed only the date ofthe execution of the rent agreement and not rent agreement as such. These findings are clearly contrary to the averments made by the respondent in his written statement filed in the suit for specific performance;

(d) Because the learned Rent Control Tribunal has erred in holding that the relationship of the Landlord and Tenant between the parties was not in dispute in the present case. The appellant had clearly pointed out that on his own written statement the respondent had denied execution of any rent agreement and therefore it could not be said that there was no dispute in respect of the relationship of the landlord and Tenant between the parties;

(e) Because it is well settled law that in case there is any serious dispute between the parties with respect to the existence of the relationship of Landlord and Tenant then no order can be passed under Section 15(1) of the Delhi Rent Control Act;

(f) Because the judgments relied upon by the learned Rent Control Tribunal are not applicable to the facts of the present case. In the present case the appellants were not only relying upon the existence of an Agreement to Sell between the parties but they had further placed on record the written statement filed by the respondent in which the respondent himself had denied execution of any Rent Agreement and had admitted that the possession of the premises in dispute had been delivered on the execution of the Agreement to Sell and on receipt of the sale consideration to the tune of Rs..................... In view of these facts, the judgment referred to by the learned Rent Control Tribunal has no application on the facts of the present case;

(g) Because if was pointed out by the appellants that the respondent himself had admitted in his written statement that the possession of the premises in dispute had been delivered to the appellant in part performance of the agreement and therefore, Section 53(a) of the Transfer of Property Act was attracted. The observation and the findings of the learned Rent Control Tribunal to the effect that the possession of the premises in dispute was given on the basis of the Rent Agreement are not based on any evidence and are clearly contrary to the admission of the respondent;

(h) Because the learned Rent Control Tribunal ought to have held that the respondent was not entitled to withdraw admission which he had already made and filed in the suit pending in the High Court;

(i) Because the findings of the learned Rent Control Tribunal that the appellants were tenants in the premises and are liable to pay the rent are contrary to the stand taken by the respondent and therefore are liable to be set-aside;

(j) Because in any case it was submitted that the respondent was delaying execution of the sale deed in favour of the appellants and after taking huge amount from the appellants as sale consideration he was not entitled to receive any rent from the appellants after stipulated date when the sale deed was to be executed by the respondent in favour of the appellants;

(k) Because the question whether the respondent was avoiding execution of sale deed in favour of the appellants was a relevant consideration and could be decided on evidence and it was in the interest of justice that passing of the order under Section 15(1) of the Delhi Rent Control Act was deferred till that period;

(1) Because the order under appeal raises a substantial question of law in as much as the order passed by the Rent Control Tribunal is without jurisdiction because in his admission made in written statement filed in the civil suit the respondent had admitted that there was no Rent Agreement and the possession of the premises in dispute was delivered to the appellants on execution of the Agreement to Sell;

(m) Because the Rent Control Tribunal had adopted entirely an erroneous approach to decide the appeal; and

(n) Because the order under appeal is unjust.

It is therefore, respectfully prayed that the appeal may be accepted, the order under appeal may be reversed and set-aside.

Place....................

Dated.................... Advocate for the Appellants