A suit for possession and mesne profits against a sick industrial company is not automatically barred by Section 22(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA). Rather, the statutory bar applies only to proceedings of the nature expressly covered by Section 22(1), or proceedings of similar coercive character, and only if they threaten the company's assets or interfere with implementation of the rehabilitation scheme

The **Delhi High Court** in the case of **Cement Corporation of India vs Dr Narender Gopal Kapahi [RFA 521/2024] dated July 07, 2026**, has held that a suit for possession and mesne profits against a sick industrial company is not automatically barred by Section 22(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA). Rather, the statutory bar applies only to proceedings of the nature expressly covered by Section 22(1), or proceedings of similar coercive character, and only if they threaten the company's assets or interfere with implementation of the rehabilitation scheme. A simple eviction/mesne profits action does not, by itself, attract that bar.

The Court also reiterated that where no registered renewal deed exists for a lease beyond one year, the tenant cannot claim a continuing fixed-term or perpetual tenancy merely on the basis of rent enhancement or conduct of parties. In such a case, the tenancy is only month-to-month and can be terminated under Section 106 of the Transfer of Property Act. Further, even if a prior notice to quit is not proved, service of summons in the possession suit can itself operate as notice of termination.

The Court further held that mesne profits may validly be assessed on the basis of comparable instances and judicially noticed comparable rentals from the same building, especially where the tenant fails to produce rebuttal evidence. At the same time, interest on such mesne profits may be denied where the tenant-company remained under SICA protection and there is no material to show that it had ceased to be a sick company during the relevant period.

On the SICA objection, the Court observed that Section 22(1) does not create a blanket bar against every proceeding involving a sick industrial company. The Court explained that the provision applies only to proceedings of the kind expressly mentioned in Section 22(1), or proceedings ejusdem generis with them, and only where such proceedings threaten the assets of the sick company or interfere with the formulation, consideration, finalisation or implementation of the rehabilitation scheme.

Applying that test, the Court found that the present suit was merely a suit for possession and mesne profits. It was not a coercive enforcement proceeding against the assets of the company, nor was it shown to obstruct the rehabilitation scheme. The Court therefore rejected the argument that prior consent of BIFR was required, and held that Section 22(1) of SICA did not bar the suit.

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