

HIGH COURT OF TRIPURA
AGARTALA

CRP No.40 of 2024

Sri Prasanta Saha
..... Petitioner (s).
Versus
Sri Subrata Mahalanabish and others
..... Respondent(s).

CRP No.41 of 2024

Sri Subrata Chakraborty
..... Petitioner (s).
Versus
Sri Subrata Mahalanabish and others
..... Respondent(s).

For Petitioner (s) : Mr. P. Roy Barman, Sr. Advocate,
Mr. Kawsik Nath, Advocate.
For Respondent(s) : Mr. D. Deb, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

04/07//2024

Heard Mr. P. Roy Barman, learned senior counsel assisted by
Mr. Kawsik Nath, learned counsel for the petitioners and Mr. D. Deb, learned
counsel for the respondents.

[2] Petitioners in both these petitions preferred under Article 227 of
the Constitution of India has questioned the impugned orders dated 12.03.2024
passed in RCC Revision No.6/2015 and RCC Revision No. 7/2015 respectively
whereby their petitions under Section 22(1) of the Tripura Building (Lease and
Rent Control) Act, 1975 has been dismissed. Both the revisions were preferred
against the order passed by the learned appellate authority i.e. learned Civil

Judge, Sr. Division whereby the learned appellate Court had reversed the decision of the learned Trial Court dismissing the suit for eviction preferred by the landlord /respondent herein. Arguments on merits were addressed on behalf of the petitioner by learned senior counsel for the petitioner. This is apparently the fourth round of litigation. The suit premises were tenanted initially for a period of three years since 01.09.2008 till 31.08.2011. The landlord had taken the plea of default of rent and personal necessity. Before the learned revision Court, the same grounds were reiterated by the tenants. Section 12(3) of the Act prescribes the conditions for eviction on the ground of bonafide need. The landlord is required to establish his bonafide need of the building for his own occupation or for the family members dependent on him. However, certain exceptions have been carved out in the proviso to the main section i.e. if the landlord has alternative accommodation in his possession in the same town or village no eviction order can be passed against the tenant. The Rent Control Court has to record special reasons if it is just and proper to do so in the interest of the tenant. Further, if the tenant is solely dependent on the income derived from such building premises and no other suitable building is available in the locality, then order of eviction can be refused. Though a plea was raised by the tenant that the requirement of own occupation is not bonafide and the documents and evidence led by the landlord do not establish the requirement of bonafide requirement of the premises but it was held that the landlord in the present case was staying far away from Agartala and requirement of his family members including himself are genuine and the original petitioner had a sizable family. The submission of the tenant that landlord's sons are financially sound and are businessman and service holder was also rejected as being devoid of any merit for the reason that the personal requirement of landlord also includes

requirement of family members. The tenant was a willful defaulter is not in dispute. Taking into consideration all these factors the learned revisional Court did not find any error in the order of the appellate Court by which the order of the learned Rent Controller had been reversed. It was also held that there is no scope to enter into the merits of factual controversies unless the findings of the appellate court are perverse.

[3] Mr. P. Roy Barman, learned senior counsel for the petitioner has inter alia submitted that the ingredients of Section 12(d) have not been fulfilled since respondent landlord has not been able to refute that he had an alternative accommodation in his possession and that the tenant was solely dependent on his income derived from such building premises. This contention of the tenant has been strongly refuted by the learned counsel for the respondents.

[4] On consideration of the rival submission of the parties and after going through the records, this Court is also of the considered view that the findings of fact rendered by the first appellate Court and revisional Court do not suffer from such error which require interference at this stage under Article 227 of the Constitution of India. Petitioner has, in such circumstances, sought for time to vacate the tenanted premises. An undertaking on affidavit has been filed. Petitioner has prayed for four months time to vacate the rented premises from the date of the order of this Court. Petitioner has also made statements that he has been paying rent regularly and there are no outstanding arrears till date. Petitioner undertakes to pay rent for the next four months. Petitioner has been paying rent regularly to the designated account number of the UCO Bank, District Court Branch i.e. to the account of the Rent Controller indicated at paragraph-4 of the affidavit. Petitioner has also stated that at the time of

entering into the tenancy he has deposited Rs.25,000/- as security which still remains with the landlord which has to be refund. Such undertaking on affidavit has been given in both the revision petitions by the tenants.

[5] Mr. D. Deb, learned counsel for the respondents-landlord submits that rent arrears, if any, have been paid to the account of the Rent Controller as per order passed by the Rent Controller dated 01.03.2012. The respondent-landlord is entitled to release of the entire arrears of rent after adjustment of the security deposit. Therefore, suitable direction may be issued to the Rent Controller for release of the arrear amount of rent along with current rent till the date of vacation after adjustment of the security deposit in each of these petitions.

[6] On consideration of rival submissions of the parties and in view of the undertaking furnished by the petitioners-tenants, this Court directs the petitioners to vacate the suit premises/tenanted premises in question within a period of four months from the date of this order. It appears that the arrears of rent and current rent have been paid to the designated account of the Rent Controller. Certain deposit slips have also been annexed by the petitioner in support thereof. For release of the arrears of rent and current rent till the date of vacation after adjustment of the security deposit of Rs.25,000/- in each of these two cases, this Court deems it proper to direct both the petitioners and respondent to appear before the learned Court of the Rent Controller within a period of three weeks preferably on 22nd July, 2024. The petitioners-tenants would furnish the proof of deposit of rent before the Rent Controller with a computation of the entire arrears of rent and current rent of the month deposited by him. The respondent would make an application for release of the arrears of

rent in his favour. The learned Rent Controller would undertake an exercise for computation of the total rent deposited by the petitioners-tenants herein and the amount due and payable to the landlord against the respective suit premises and thereafter pass an order for its release in favour of the landlord on due identification after adjustment of the security deposit, if any.

[7] Accordingly, with these observations both the petitions are disposed of. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

