

IN THE HIGH COURT OF TRIPURA
AGARTALA

CRP No.94 of 2010

Shri Pranab Bhowmik,
son of late Jagabandhu Bhowmik,
resident of 249/A. H.G. Basak
Road, Joynagar, P.O. Agartala, P.S.
West Agartala, District – West
Tripura.

..... Petitioner

- V e r s u s -

Shri Narayan Debnath,
son of late Haricharan Debnath,
resident of 249/A. H.G. Basak
Road, Joynagar, P.O. Agartala, P.S.
West Agartala, District – West
Tripura.

..... Respondent

BEFORE
THE HON'BLE MR.JUSTICE S. TALAPATRA

For the petitioner : Mr. D.R. Choudhury, Advocate,
Mr. D. Deb, Advocate.

For the respondent : Mr. S.M. Chakraborty, Sr. Advocate,
Ms. B. Chakraborty, Advocate.

Date of hearing and : **20.02.2015**
delivery of judgment & order

Whether it is fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

Heard Mr. D.R. Choudhury, learned counsel along
with Mr. D. Deb, learned counsel appearing for the petitioner as
well as Mr. S.M. Chakraborty, learned senior counsel assisted by
Ms. B. Chakraborty, learned counsel appearing vice Ms. P.
Chakraborty, learned counsel for the respondent on record.

[2] This is a petition filed under Article 227 of the Constitution of India challenging the legality of the order dated 28.09.2010 delivered in RCC (Revision) No. 06 of 2010 by the Rent Control Court Revisional Authority, the RCC Revisional Authority in short, (the Addl. District Judge, West Tripura, Agartala reversing the judgment of affirmation dated 31.10.2009 delivered by the Rent Control Appellate Authority (the Civil Judge, Sr. Division, No.1, West Tripura, Agartala) in RCC Appeal No.01 of 2009.

[3] It may be recorded that by the said judgment dated 31.10.2009 the judgment of the Rent Control court dated 02.12.2008 delivered in RCC 01 of 2007 was affirmed. The Rent Control Court dismissed the petition for eviction filed by the respondent herein.

[4] Mr. D.R. Choudhury, learned counsel appearing for the petitioner has submitted that the revisional authority has exceeded its jurisdiction by upsetting the concurrent finding of fact returned by the RCC court and the Rent Control Appellate Authority. Apart that, Mr. Choudhury, learned counsel has submitted that there is no infirmity in the judgment and order dated 02.12.2008 inasmuch by the order dated 06.08.2007, the RCC court had determined the arrears of rent and in terms thereof, the said rent was paid by the petitioner on purging the default of payment of rent etc.

[5] From the other side, Mr. S.M. Chakraborty, learned senior counsel appearing for the respondent has submitted that the very basis of the judgment and order dated 02.12.2008 delivered in RCC case No.01 of 2007 emanates from perverse reading as the order dated 06.08.2007 does not determine in any manner the arrears of rent to be paid to the respondent. As such, a very short question arises for consideration.

[6] Having regard to the jurisdictional limit in view of the provisions of Article 227 of the Constitution of India, it is to be assessed whether the order dated 06.08.2007 has determined the arrears of rent or not. For that purpose, the order dated 06.08.2007 passed by the RCC court is extracted hereunder:

"Ld. Counsel for the Landlord-petitioner is present.

Ld. Counsel for the tenant-O.P. is also present.

I have heard both the sides, on the petition filed by the tenant-O.P. and after hearing both the sides this court is convinced that the tenant-O.P. has made out a case for accepting the rent for the period from August, 2006 to July, 2007. The tenant-O.P. side has also filed 2(two) firisti, photocopy of the money order receipts No.1887 and 1888, dated 17.07.2007.

Accordingly, the tenant O.P. is allowed to deposit the amount of Rs.4394(until April, 2007) and the further arrears rent for May, June and July, 2007 with deduction of money order charges, along with electric charges of Rs.1696 till March, 2007.

The tenant O.P. is directed to deposit the said amount within the statutory period, through the original filing court.

Fix 24.09.2007 for deposit of the arrear rent along with allied charges/further necessary order."

[7] On bare reading of the records it would be apparent that there had not been any endeavor by the RCC court to determine the arrears of rent. The finding returned by the order dated 02.12.2008 delivered in RCC case No.01 of 2007 reads as under:

"Therefore, the question what should be the quantum of arrear rent for contesting this case and the question of restoration of the case cannot be agitated at this point."

As consequence of the scrutiny of the order dated 06.08.2007, the said finding returned by the RCC court cannot be sustained in law.

[8] Having held so, there is no infirmity in the impugned order. Accordingly, this petition stands dismissed. The hearing in terms of the order dated 28.09.2010 shall take place with reasonable expedition.

There shall be no order as to costs.

JUDGE

Sujay