

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 284 OF 2015

MR. ZAFAR MEMON.

... Petitioner

Versus

MRS. EVA PEREIRA @ MARIA IVA
SAPIENCIA VAS E PEREIRA AND 6
ORS.,

... Respondents

Shri Ashwin D. Bhobe, Advocate for the Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 30th September, 2015

P.C.:

Heard Shri A.D. Bhobe, the learned Counsel for the petitioner.

2. By this petition, the petitioner/tenant is challenging the judgment and order dated 7/01/2015 passed by the learned District Judge, in Rent Appeal No.30/2013 by which the order of eviction passed by the Rent Controller on 11/06/2010 in case no.Bldg/ARC/V/25/2001 has been confirmed. The respondent-landlord had sought eviction on several grounds including the ground about the petitioner being in arrears of rent and having failed to clear the same in terms of Section 22 of the Goa, Daman and Diu Buildings (Lease Rent & Eviction) Control Act, 1968. The learned Rent Controller passed the order of eviction only on the ground of arrears of rent of more than 3 months.

3. It is submitted by Shri Bhobe, the learned Counsel for the

petitioner that the learned Rent Controller has not considered defence raised by the petitioner about his inability to pay the arrears on account of his financial difficulties. He has pointed out to an application dated 2/05/2002 by which the petitioner proposed an arrangement for clearing of the arrears of Rs.72,000/- in instalments starting from 15/05/2002 to 15/08/2002. It is submitted that as per this arrangement the amount has been paid/deposited. The learned Counsel has referred to the impugned order so as to submit that aspect about the reasonable cause for non-payment of rent and the arrears is not properly considered.

4. I have considered the circumstances and the submissions made. With the assistance of the learned Counsel for the petitioner I have perused the impugned order passed by the learned Rent Controller as also the judgment in appeal. The learned Rent Controller has found that under the provisions of the said Act a tenant has three opportunities for clearing the arrears; one before filing of the eviction proceedings, and two during the pendency of the same. The third opportunity can be availed only when the tenant proves to the satisfaction of the Rent Controller that his default to pay or tender the arrears of rent was due to some reasonable cause. In the present case, it is undisputed that the petitioner has not availed of the first two opportunities and only relied upon the ground of having a reasonable cause for non payment of the arrears. The learned Rent Controller has considered this aspect also and has come to the conclusion that

the material produced was not sufficient to come to the conclusion that the petitioner was prevented on account of financial crises in clearing the arrears. In the present case, it is undisputed that the petitioner had not led any evidence. It was submitted by Shri A.D. Bhobe, the learned Counsel for the petitioner that the evidence of the petitioner was closed. However, indisputably that order was also not challenged. The finding recorded by the Rent Controller has been confirmed by the appellant Court. In the absence of the findings of fact being shown to be perverse no interference is called for in the exercise of extraordinary jurisdiction of this Court under Article 227 of the Constitution of India.

5. In such circumstances, the petition is without any merit. In the result, the petition is hereby dismissed.

C. V. BHADANG, J.

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