

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR

Writ Petition No.853 of 2015

(Mr. Jagdish s/o Gokulchand Sehgal v. Shri Anil s/o Purushottam Moharil)

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Office Notes, Memoranda of Coram,  
appearances, Court's orders or directions      Court's or Judge's orders  
and Registrar's order

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Shri A.S. Dhore, Advocate for Petitioner.

**Coram : R.K. Deshpande, J.**

**Dated : 30<sup>th</sup> March, 2015**

The respondent-landlord claimed a decree for eviction and possession on the ground of arrears of rent. The case of the respondent-landlord was that the rent was fixed at Rs.100/- per month and the petitioner-tenant has failed to pay the amount of rent for the period from 1-12-1998 to 31-3-2007. The respondent-landlord issued a notice on 25-4-2007 calling upon the petitioner-tenant to pay the arrears of rent at the rate of Rs.100/- per month. The petitioner-tenant denied to have received any such notice.

In response to the suit summons, the petitioner-tenant has deposited some amount, stating that the agreed rate of rent was Rs.80/- per month and not Rs.100/- per month, as claimed by the respondent-landlord. During the pendency of the suit, certain amount was also deposited from time to time.

The question is whether there was compliance of Section 15(2) and (3) of the Maharashtra Rent Control Act, 1999?

The Court has recorded a categorical finding that the notice, as required by Section 15(2) of the said Act was duly

served upon the petitioner-tenant and the receipt at Exhibit 24 is placed on record, which bears the signature of the petitioner-tenant. The petitioner-tenant, though disputed the receipt of notice, does not dispute the signature on Exhibit 24, the acknowledgment produced on record. The finding of fact in respect of non-service of notice is based upon the evidence on record and does not call for any interference.

So far as the rate of rent is concerned, it appears from the finding recorded by both the Courts below that even at the rate of Rs.80/- per month as per the stand taken by the petitioner-tenant is to be accepted, the petitioner-tenant has failed to deposit the amount of rent regularly during the pendency of the suit, as required by Section 15(3) of the said Act. The petitioner-tenant is not coming before the Court with a definite case that as per the rate of rent at Rs.80/- per month, the entire arrears of rent for the period from 1-12-1998 to 31-3-2007 were deposited within a period stipulated under sub-section (3) of Section 15 of the said Act. From the chart produced, it is apparent that even during the pendency of the suit, the petitioner-tenant was irregular in making the payment even at the rate of Rs.80/- per month. In fact the petitioner-tenant was under obligation to deposit the arrears of rent at the rate of Rs.1,000/- per month, as was claimed by the respondent-landlord in a notice under Section 15(2) of the said Act within a stipulated period after receipt of the suit summons. Upon adjudication, if the Court is found that the rate is Rs.80/- per month, then the petitioner-tenant would be entitled to refund of the amount.

In view of above, the petition is dismissed.

Judge.