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Ct.9.

SAT 2089 of 2005

Madan Mohan Mondal vs. Smt. Manju Saha & Ors.

Mr. Rahul Karmakar
..For the respondents.

Re: CAN 1982 of 2020

By this application an appropriate order has been prayed on behalf of the tenant appellant for allowing the petitioner appellant to deposit arrears monthly rent with effect from December 2019 at a time and the current rent month by month arising out of Ejectment Suit no. 1509 of 2000.

It appears from the order passed by a Co-ordinate Bench of this Hon'ble Court on 02.12.2019 that the conduct of the appellant is very dismal in nature in as much as the appeal was dismissed for default on 12.12.2013 and the LCR have been sent down to the court below on 17.01.2014. It also reveals that the appeal was restored in its original file and number with direction to call for the LCR on 18.07.2014. Again the appeal was dismissed for default on 30.08.2016 which stood restored on 01.09.2016. But at the time of hearing, the appellant was found absent. Certain directions were also given but those directions were not complied with.

Today when the matter is called on none has entered appearance on behalf of the appellant.

It would not be out of the context to take note of the

order dated 12.09.2005 that the appeal was admitted on substantial questions of law with direction to stay of all further proceedings of Execution Case No. 119 of 2005 pending before Presidency Small Causes Court, 4th Bench, Calcutta on condition that the appellant will go on depositing every month an amount equivalent to rent within the 15th of the month next following and the first of such instalment for the month of September 2005 was directed to be deposited within October 7, 2005 and all arrears which were not paid should be deposited by October 7, 2005.

It would appear that the LCR was called for, paper books were made ready and the appeal was also ready for final hearing on merit but the appellant appears to take Court in a casual manner as he filed an application for appropriate order for depositing arrears monthly rent.

Therefore, this Court finds that the payment of monthly rent is not being made in compliance of the directions made by the Hon'ble Division Bench while admitting the appeal.

Therefore, this Court comes to this observation that there is dismal conduct on the part of the appellant in order to take time and to continue with the possession of the decreetal premises. It is also pertinent to note that though the appeal was admitted but the department has not given any particular number of the Second Appeal.

However, the appeal preferred by the appellant tenant is hereby dismissed for default. If any restoration is

sought for that should be subject to pre-condition to deposit a sum of Rupees One lakh with the State Legal Services Authority, and the amount so deposited, would be credited to the Juvenile Justice Board for the destitute.

Thus, SAT 2089 of 2020 along with application being CAN 1982 of 2020 stand dismissed for default.

Consequently, the plaintiffs/respondents is at liberty to proceed with the execution process before the Executing Court.

(Shivakant Prasad, J.)