

A.Nos.4095 of 2015,
3510 and 3511 of 2016
in
C.S.No.501 of 2015

M.M.SUNDRESH, J.

The applicant is the Charitable Trust and it is the landlord of the respondent. In view of the continuous failure on the part of the respondent from paying the rent due, the suit has been laid, seeking the following reliefs:

(a)directing the defendant to pay the plaintiff a sum of Rs.24,45,614/- towards defaulted rents and pay interest thereon at 18% from the date of plaint till realization in full of the suit claim.

(b)directing the defendant to quit and deliver the vacant possession of the suit property to the plaintiff.

(c)directing the defendant to pay a sum of Rs.1,75,000/- p.m. towards future damages for use and occupation of the suit property from the date of suit till delivery of vacant possession of the suit property by the defendant.

(d)for the costs of this suit.

2. Pending the suit, the applicant has filed A.No.3510 of 2016 seeking to handover vacant possession of the schedule mentioned property on the ground that even the admitted amount has not been paid by way of rent despite the order passed by this Court, based upon the letter dated 11.04.2016 given by the respondent/defendant and the affidavit sworn in on 07.06.2016.

3. One more application was filed in A.No.4095 of 2015 seeking a direction to the respondent to furnish security. In this application, this Court was pleased to pass an order dated 25.06.2015, which reads as under:

"5. Accordingly, the respondent is directed to furnish security to the applicant/plaintiff to the extent of the suit claim of Rs.24,45,614/- within a period of four weeks from the date of receipt of the notice. Issue notice to the respondent returnable in four weeks. Private notice is also permitted. Post after four weeks."

4. In the earlier letter dated 11.04.2016 sent by the respondent, the following statement has been made:

"We refer to the discussion, we had at our office today at 11.30 a.m. regarding the Rent Outstanding from us for the premises at No.50, Old No.41, Josier Street, Nungambakkam, Chennai - 34. On discussion between both the parties, we have arrived the following....."

5. Thereafter, an affidavit was sworn in on 07.06.2016 stating that the letter dated 11.04.2016 would be complied with. The following are the averments made therein:

"2. I submit that the plaintiff herein had filed suit against the defendant company. Since the company want to settle the entire issue part payments were made before this Hon'ble Court, the company had a discussion with the plaintiff on 11.04.2016 and arrived for a compromise. The letter dated 11.04.2016 was produced before this Hon'ble Court on 25.04.2016 and this Hon'ble Court directed to file a addl. affidavit to that effect the company would clear the rent upto March 2016 on or before 10th July 2016.

3. I submit that the letter dated 11.04.2016 filed before this Hon'ble Court on 25.04.2016 may be treated as

part and parcel of this affidavit."

6.Considering the same, on 08.06.2016, this Court has passed the following order in A.No.4095 of 2015:

"2.Today, when the matter is taken up for hearing, the learned counsel for the respondent has filed an affidavit of the respondent stating that the entire outstanding amount would be paid on or before 10.07.2016. The said undertaking of the respondent, though disputed by the learned counsel for the applicant, is hereby recorded. Thus, it is made clear that if the undertaking is not complied with by the respondent, on the next date of hearing, the respondent has to face the consequences including a possible eviction.

Post the matter on 11.07.2016 for reporting compliance."

7.When the matter came up for hearing on 11.07.2016, there was no compliance of the order passed on 08.06.2016, however, in order to give a final opportunity, the matter stands adjourned to

25.07.2016, on the request made by the learned counsel for the respondent. The order dated 11.07.2016 reads as under:

"Unfortunately, even today, there is no compliance of the order of this Court dated 08.06.2016. Though the learned counsel appearing for the respondent brings Demand Draft for three months' rent, it is neither acceptable to this Court nor to the learned counsel for the applicant. Post on 25.07.2016 at the request of the learned counsel for the respondent."

8. Unfortunately, the respondent could not make any progress. Finally, the matter stands posted today. Even today, learned counsel for the respondent expressed his inability to comply with the order passed. Under those circumstances, this Court is inclined to allow A.No.3510 of 2016. This order is passed in view of the fact that the letter dated 11.04.2016 issued by the respondent is not in dispute. In the said letter, the respondent has acknowledged the liability to pay a sum of Rs.34,47,827/-. It appears that no amount has been paid out of the said amount. The affidavit filed by the respondent is also not acted upon. Therefore, this Court has to construe that despite

admission on the liability, there is no compliance and therefore, the applicant is entitled to get the relief sought for. Accordingly, A.No.3510 of 2016 stands allowed as prayed for.

9.This order is also passed as this Court is not inclined to pass any further orders regarding the payment of admitted arrears, which is the subject matter of the application in A.No.3510 of 2016 and the non-compliance of the direction of this Court to furnish security in A.No.4095 of 2015.

10.Inso far as the applications in A.Nos.4095 of 2015 and 3511 of 2016 are concerned, in view of the order passed in A.No.3510 of 2016, this Court is not inclined to pass any positive orders in these applications as appropriate orders can be passed at the time of deciding the suit. Accordingly, these applications are closed.

09.08.2016

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