Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12475 OF 2017

Vijay Ramshankar Sharma ...Petitioner
Versus
Neeta Sushil Premchand & Ors …Respondents

Mr Mayur V Faria, *for the Petitioner.*

CORAM: G.S. PATEL, J
DATED: 28th November 2017

PC:-

1. The Writ Petition is directed against an order dated 8th September 2017 on the Respondents'-Plaintiffs' application filed at Exhibit-50. The Plaintiffs sought a direction against the Petitioner to deposit or pay an amount of Rs.7,42,063.52. Defendant No.1(c) is the present Petitioner. He filed a reply at Exhibit-51. He opposed the application.

2. The parent proceeding is an eviction suit. According to the Plaintiffs, the 1st Defendant paid rent but irregularly. The response was that rent was paid in advance and in excess. It is also argued that no inspection was given of the bills in respect of repair cess and property taxes. Another defence taken was that a deposit had been taken for some other premises let out to another party. It was denied that the defendants were in arrears. Copies of 18 cheques towards payment of rent were tendered.

3. The Plaintiff filed a statement of arrears of rent, municipal taxes, repair cess and debit notes. There is a factual dispute now raised about whether these debit notes that were accepted or not. It was argued that no inspection has been given of the bills of property taxes or municipal taxes. The Court noted that no application was made at any time for any such inspection. There was also no application for fixing the standard rent. The reference to other premises given on licence is of no assistance. The Court found that the Defendant was occupying the premises without paying pro rata contribution of the municipal and property taxes and that it was the Plaintiff-landlord who would have to pay these taxes alone. Referring to the provisions of Order 15-A of the Code of Civil Procedure, the Court exercised its powers to direct the deposit being made.

4. The impugned order directed the 1st Defendant to pay the amount of Rs.7,42,063.52 within three months. It is only to be noted that the amount computed is due on 30th November 2013. Almost exactly four years have passed and that period will also now have to be separately computed. The impugned order makes it clear that the direction was for a deposit.

5. Essentially, the Defendant expects this Court in exercise of its supervisory writ jurisdiction under Article 227 of the Constitution of India to enter into a controversy for computing the correctness of the payment made. No such relief is of all possible. In any case, the prayers sought would result in the very situation that the Trial Court correctly said could not be countenanced, i.e., allowing the Defendant to continue to occupy the premises without making a pro rata contribution to the taxes due.

6. The impugned order calls for no interference.

7. The Writ Petition is rejected.

8. Time to make deposit is extended by another three weeks from today.

(G. S. PATEL, J.)