

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

SECOND APPEAL No.1368 OF 2018

JUDGMENT: *(oral)*

(per Hon'ble Sri Justice Suresh Kumar Kait)

After some arguments, learned counsel for the appellant seeks six months time to vacate the premises and also seeks direction thereby directing the respondent to pay an amount of Rs.2,00,000/- deposited by the tenant as security.

2. In para-13 of the impugned order, the learned trial Court has observed that according to tenant/appellant, he gave Rs.2,00,000/- as a refundable deposit. But according to the landlord/respondent, he took the said amount of Rs.2,00,000/- from the tenant as a hand loan. Therefore it is clear that the landlord took the said amount of Rs.2,00,000/- from the tenant. To that effect, the landlord did not produce any evidence, except his oral testimony to show that he received an amount of Rs.2,00,000/- towards hand loan. Further, the landlord failed to adduce any supporting evidence to show that he discharged the said amount of Rs.2,00,000/- to the tenant in four installments. Therefore, it is clear that the landlord is having deposit of Rs.2,00,000/- from the tenant.

3. In view of the observation made by the trial Court which has not been challenged by the respondents, I hereby

direct the respondents to return amount of Rs.2,00,000/- after deducting the rent due towards the appellant.

4. In view of the submissions made by the learned counsel for the appellant/tenant, I hereby extend the time to the appellant to vacate the premises within six (06) months subject to condition that he shall continue to pay the amount of Rs.10,000/- (Rupees ten thousand only) per month as a rent.

5. I hereby make it clear that if the appellant failed to vacate the premises within six months, he shall be entitled to pay an amount of Rs.50,000/- per month as a rent of the schedule property.

6. I further make it clear that since the time is granted for six months and the rent for six months would come around Rs.60,000/- therefore the landlord is directed to refund Rs.1,40,000/- to the appellant at the time of vacating the premises.

7. In view of the above, the Second Appeal is disposed of. No order as to costs.

Miscellaneous Petitions, if any pending, shall stand closed.

SURESH KUMAR KAIT, J.

Date : 14-09-2018
Gvl