

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

WRIT PETITION NO.2980 OF 2019

(MRS. CHANDRAKALA ARUN PRADHAN...VS.. GULSHAN SANTRAM SAHANI.)

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

Court's or Judge's orders

Shri S.B.Tiwari, Advocate for Petitioner.
Shri Masood Sharif, Advocate for Respondent.

CORAM : Z.A.HAQ, J.

DATED : JULY 08, 2019.

Heard.

On application filed by the respondent/landlord under Order 15-A of the Code of Civil Procedure, the trial Court passed order on 21st July 2018 and directed the petitioner/tenant to deposit amount of Rs.2,07,400/- towards arrears of rent from November 2012 till June 2018, within two months from the date of order. The petitioner/tenant had filed application (Exh.19) praying that the order dated 21st July 2018 be recalled. The petitioner/tenant contended that the landlord had suppressed the fact that rent for certain period was already paid by the tenant. This application is dismissed by the impugned order.

I have examined the documents placed on record of the petition and have gone through the impugned order. The defence of the petitioner/tenant is that the rent for the till December 2014 is paid by her in cash and the landlord has not issued receipts for the same. Except for the bald statement made by the tenant that rent till December 2014 has been paid in cash, there is no material on record to substantiate the claim. As far as the claim of the landlord for

rent from January 2015 is concerned, undisputedly, the amount of rent is not received by the landlord. The tenant claims that cheques were given to the landlord for that amount, however, same have not been encashed by the landlord. Some cheques are encashed by the landlord and while passing the order dated 6th March 2019 on application (Exh.19), the learned trial Judge has directed that the amount of Rs.16,300/-, which is received by the landlord towards rent for certain period, should be adjusted.

In the above facts, it cannot be said that the learned trial Judge has committed any error of jurisdiction which necessitates interference by this Court in the extraordinary jurisdiction.

On 16th April 2019 this Court granted interim order in favour of the petitioner subject to depositing of Rs.94,550/- within two weeks from the date of order. The record shows that the petitioner had given cheque for Rs.94,550/-, but it is returned back as the amount written in numbers differed from the amount written in alphabets.

The learned Advocate for the landlord submitted that looking to the past conduct of the petitioner it is clear that mischief is played by the petitioner and it is not an inadvertent error, but a calculated move.

Be that as it may, the learned Advocate for the petitioner submitted that Demand Draft for Rs.94,550/- is ready with him and undertakes to deposit it before the trial Court within one month. On deposit of the amount, the same be given to the respondent/ landlord.

As per the impugned order, the petitioner was required to deposit the arrears of rent till June 2018 within two months from 21st July 2018 and to deposit the rent from July 2018 onwards till tenth of every month. Learned Advocate for the petitioner has made a specific statement that rent from July 2018 is being regularly deposited, as directed by the trial Court. As far as arrears of rent is concerned, the petitioner is granted time till 30th August 2019. If the petitioner fails to abide by any of the directions given in this order, the trial Court shall pass appropriate orders against the petitioner according to law.

The writ petition is **dismissed** with costs quantified at Rs.Ten Thousand to be paid by the petitioner to the respondent.

The petitioner shall deposit the amount of costs before the trial Court within one month. On deposit of this amount, it be given to the respondent/landlord.

As the civil suit is pending since 2015, the trial Court shall decide it till 30th March 2020.

CIVIL APPLN.NO. 1719/2019.

In view of the directions given in the judgment in writ petition, the application seeking permission to deposit the amount in terms of order dated 16th April 2019 does not survive, hence, it is **disposed**.

JUDGE