

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

Writ Petition No.1430 of 2018

(Parmanand Ramratan Shahu .vs. District Judge, Nagpur and another.)

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

Ms. Ritu Kalia, AGP for Respondent No.1.

CORAM : Manish Pitale, J.
DATED : March 05, 2019.

This is a writ petition filed by the tenant challenging order dated 02.08.2017 passed by the Court of Ad-hoc District Judge-3, Nagpur, whereby the application filed by the petitioner for stay of the eviction decree granted by the lower Court, has been allowed subject to the petitioner paying a monthly rent of Rs.4000/- per month to the respondent (original landlord) from the date of filing of the appeal.

2. This writ petition was filed on 20.02.2018 and it was listed on four dates earlier when it stood adjourned. The last two dates of listing i.e. 15.01.2019 and 12.02.2019 show that none had appeared on behalf of the petitioner. Since this is a writ petition, this Court is taking up the same for consideration on merits.

3. A perusal of the impugned order shows that while granting stay of eviction decree in favour of the petitioner, the appellate Court has taken into consideration material placed on record by the

respondent/landlord including the ready reckoner, to come to a conclusion that a condition of payment of Rs.4000/- per month rent during the pendency of the appeal, would be reasonable to grant an interim order in favour of the petitioner.

4. The only contention raised on behalf of the petitioner before the appellate Court was that he was paying the rent of Rs.975/- per month since the year 1990 and that the figure of rent now demanded by the respondent/landlord of Rs.10,000/- per month was an astronomical sum and that a reasonable amount could be directed to be paid by the petitioner to continue in the suit premises during the pendency of the appeal. The petitioner relied upon rent receipts of the neighbouring shops in which the rent amount between Rs.1500/- to Rs.1800/- per month were paid and that, therefore, fair market rent for the suit shop during the pendency of the appeal ought to be Rs.2000/- per month.

5. A perusal of the impugned order shows that the appellate Court has taken into consideration a certificate of an Architect produced on behalf of the respondent as also the ready reckoner of the concerned area and upon analysis of such material, the appellate Court came to a conclusion that although the respondent had demanded an amount of Rs.10,000/- per month, the amount of Rs.4000/- per month would be a reasonable amount for the petitioner to pay to the respondent during the pendency of the appeal.

6. It appears that the finding rendered by the appellate Court is based on appreciation of material on record. The reliance placed on rent receipts of the neighbouring shops by the petitioner is misplaced because once the decree of eviction is granted, as per the settled law the relationship of the landlord and tenant is severed and the tenant in such a situation, during the pendency of the appeal if desires to continue in the suit premises, he must pay rent/occupation charges which are closer to the market rent that the suit premises would fetch.

7. In these circumstances, the writ petition is found to be without any merit and it is dismissed.

8. Ms. Ritu Kalia, learned AGP, has appeared on behalf of the formal respondent no.1.

JUDGE

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