

23.9.2022
92,93
Ct. no. 652
sb

C.O. 3091 of 2019
With
C.O. 894 of 2020

Biswanath Bej
Vs.
Ramkrishna Mishra & Anr.

Mr. Rabindranath Mahato
Mr. Aritra Shankar Ray ...for the petitioner

Mr. Sukanta Das ...for the O.P. no. 1

Being aggrieved and dissatisfied with the order no. 20 dated April 3, 2018 and order no. 40 dated August 6, 2019, both passed in other suit no. 3441 of 2015 by the Civil Judge (Junior Division), 1st Court, Midnapore, two separate revisional applications being C.O. 894 of 2020 and C.O. 3091 of 2019, respectively have been preferred by the defendant/tenant/petitioner herein. Since issues involved in both the revisional applications are the same, both applications are hereby disposed of by a common order.

The defendant/petitioner filed an application under Section 7(1) of the West Bengal Premises Tenancy Act, 1997 in a suit for eviction instituted by opposite party no. 1/landlord contending inter alia that opposite party no. 1/plaintiff has already received Rs. 1,44,000/-

towards monthly arrear rent in respect of suit premises for the month of August, 2005 till July, 2015 and petitioner may be permitted to deposit rent of the suit premises during the month of August, 2015, to September, 2015 as well as current monthly rent in respect of the suit property. Leaned Civil Judge, Junior Division, First Court, Midnapore while disposing application under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 has directed the petitioner to pay Rs. 1,44,000/- as arrear rent by 20 monthly instalment within October 10, 2016 vide order dated 29.8.2016 and the tenant was further directed to pay current monthly rent within 10th day of each succeeding month. In the said suit, plaintiff/opposite party no. 1 filed a petition on 13.11.2017 contending that he has filed the suit for eviction and as per agreement defendant no. 1 paid Rs. 1,44,000/- and the same is adjusted upto August 2015, but court vide order dated 29.8.2016 directed the defendant to pay Rs. 1,44,000/- which defendant has already paid and as such plaintiff/landlord prayed for rectification of the said order.

On 14th February, 2017 defendant/petitioner also filed an application inter alia contending that the arrear rent of Rs. 1,44,000/- has already been paid and no arrear rent due from petitioner and as such petitioner herein prayed for review of said order dated 29.8.2016.

Opposite party no. 1/plaintiff also admitted that as per agreement petitioner has paid said amount of Rs. 1,44,000/-.

Learned Civil Judge, (Junior Division) by the order dated 3.4.2018 rejected plaintiff's aforesaid application dated 13.11.2017, holding that order does not contain any arithmetical or clerical error, so order is not required to be rectified, against which C.O. 894 of 2020 has been preferred and learned Civil Judge, Junior Division, First court, Midnapore was further pleased to reject the application for review on the self –same matter filed by defendant/petitioner on 14.2.2017 inter alia holding that the court has no jurisdiction to consider the petition, filed by the petitioner on 14th February, 2017, which will have the effect of sitting over its own order, against which C.O. 3091 of 2019 has been preferred.

Learned counsel for the opposite party no. 1 submits that he has received the entire amount of Rs. 1,44,000/- and as such there is no arrear of rent to be paid by the tenant/petitioner.

Having considered the facts and circumstances of the case, it appears that when the said amount has already been admittedly paid by the tenant/petitioner and no arrear amount is lying outstanding then there is no reason to reject the aforesaid prayers for review of its earlier order dated 29.8.2016 passed by the trial court.

Accordingly, both the applications being C.O. 3091 of 2019 and C.O. 894 of 2020 are disposed of by setting aside both the impugned orders dated 3.4.2018 and 6.8.2019 passed in O.S. 344 of 2015 by the civil Judge (Junior Division), 1st Court, Paschim Midnapore.

Learned trial court is requested to expedite the hearing of the suit and to make every endeavour so that the hearing of the suit may be concluded within one year from the date of communication of this order.

Urgent photostat certified copy of this order, duly applied for, be given to the parties upon compliance of all requisite formalities.

(Ajoy Kumar Mukherjee, J.)