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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.189 OF 2022

Shri Dyanchand Manikraj Jaiswal

...Applicant

Versus

Shri Mallesh Bhimayya Badarmena

...Respondent

Mr. Rajas Naik, i/b. Ms. Puja N. Pilankar for the Applicant.

Mrs. Preeti Walimbe for Respondent.

CORAM : R.I. CHAGLA J

DATE : 25TH NOVEMBER, 2022

ORDER :

1. Heard learned Advocates for the parties.
2. By this Civil Revision Application, the Applicant has sought quashing and setting aside of impugned judgment and order dated 11th March, 2022 passed by the District Judge-1, Kalyan in RCS Appeal No.71 of 2018 arising out of the impugned judgment and decree dated 11th January, 2018 passed by the 4th Joint Civil Judge, S.D. Kalyan in Regular Civil Suit No.87 of 2009 and for dismissal of the RCS No.71 of 2018.

3. The impugned judgment and decree has been challenged on the ground that the Court below failed to appreciate that the Applicant had shown readiness and willingness to pay the rent and other permitted increases while tendering the same even before the notice of demand was served upon the Advocates though the Respondents had not recovered and /or demanded rent from the Applicant as admitted by the Respondent during the cross examination. Further ground raised is that the Court below had failed to appreciate that the Applicant had not disputed the quantum of rent and permitted increase in the Notice dated 12th April, 2006. The contention of the Applicant is that the original rent was fixed by the Respondent / original Plaintiff as per the rent receipt dated 30th March, 1995 and three months rent has been deposited by the Applicant to the Respondent fixed as Rs.210/- per month. This suggest the Respondent is charging increase rent from the Applicant.

4. The next ground raised by the Applicant is that, the Court below failed to consider that the Applicant has denied the title of the Respondent in Written Statement filed by the Applicant and also in Affidavit of Evidence filed by the Applicant. The documents regarding the Suit property is in the name of the wife of the

Respondent and the Respondent does not have any document to show ownership over the Suit premises as well as the land on which the Suit premises is standing on.

5. The further ground raised is that, the Court below had not taken into consideration that the Applicant had apart from depositing the rent regularly and punctually as in the Court and also paid the Municipal Corporation by taxes. These are the main grounds of challenge raised in the Civil Revisions Application.

6. It is noted from the impugned judgment and order that in paragraph 17 the Court has considered that the Applicant / Original Defendant had agreed to pay monthly rent in respect of the suit premises and accepted the Respondent as his landlord although the Applicant has denied the title of the Respondent in Written Statement filed by the Applicant and Affidavit of Evidence filed by the Applicant. The Court below has further considered that the Applicant had filed Miscellaneous Civil Application for fixation of standard rent against the Respondent which was dismissed for default.

7. The Court below had also considered that the

Applicant / Original Defendant is in arrears of rent. The Respondent / Original Plaintiff had contended that the monthly rent was Rs.310/- exclusive of municipal taxes and the total rent of Rs.415/- was to be paid by the Applicant every month and that the Applicant during the period from April, 2000 to March, 2006 committed willful default and the amount of Rs.29,880/- is outstanding against him. The Respondent had issued notice on 12th April, 2006 raising demand of arrears of rent. The finding is that the Applicant had failed to comply with the notice. The Applicant had also not deposited the rent either before the Trial Court or the Appellate Court.

8. Thus, there is a concurrent finding of the Trial Court and Appellate Court that the Applicant is a defaulter in payment of rent after taking into consideration the relevant provision of Section 15 of the Maharashtra Rent Control Act and the material before it. It is to be noted that the Application for standard rent had been made by the Applicant which was dismissed for default on 15th February, 2014. Thereafter, no steps have been taken by the Applicant. Accordingly, there is no infirmity in the impugned judgment and order dated 11th March, 2022 in respect of which the Civil Revision Application has

been filed. Accordingly, the Civil Revision Application is dismissed.

9. The learned Advocate appearing for the Applicant seeks six weeks stay of this Order. However, considering that there is a concurrent finding of the Trial Court and Appellate Court that, the Applicant is defaulter in payment of rent under Section 15 of the Maharashtra Rent Control Act, the said application is rejected.

[R.I. CHAGLA J.]