

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

WRIT PETITION NO. 3714 OF 2022

Shailendra s/o Mohanlal Choudhary

-- Petitioner

Vs.

Sangita w/o Dilip Kukde

-- Respondent

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

Court's or Judge's orders

Mr. C.F. Bhagwani, Advocate for Petitioner

Mr. N.R. Tekade, Advocate for Respondent

CORAM : MANISH PITALE, J.

DATE : 06th JULY, 2022

By this writ petition, the petitioner i.e. the tenant has challenged order dated 10/02/2022, passed by the Court of Additional Judge, Small Causes Court, Nagpur, whereby an application at Exh.13, filed on behalf of the respondent / landlord under Order 15-A of the Code of Civil Procedure for striking of the defence of the petitioner and specifically seeking direction to the petitioner to pay arrears of rent, has been partly allowed.

2. The learned counsel for the petitioner vehemently submitted that the Court below having found that the plaintiff had failed to place on record material to show the quantum of monthly rent, there was no basis for the Court below to have

passed a specific positive direction towards arrears of rent @15,000/- per month. The learned counsel appearing for the respondent submitted that the material on record was properly appreciated by the Court below while passing the impugned order.

3. This Court has perused the impugned order. It is found that while the Court below did arrive at a conclusion that the respondent (original plaintiff) could not specify the exact quantum of monthly rent, but, numerous cheques issued by the petitioner that were dishonoured were placed on record. By appreciating such material on record and the fact that the petitioner had not come clean and, other than denying the statements made by respondent, had not stated anything worthwhile before the Court below as regards the monthly rent, the impugned directions were issued.

4. In such a situation, the Court below took into consideration the material on record and arrived at a *prima facie* conclusion, which appears to be reasonable that monthly rent could be treated as Rs.15,000/- and accordingly, passed the order partly in favour of the respondent.

5. This Court is not convinced that the approach adopted by the Court below warrants exercise of writ jurisdiction for interference in the matter, particularly when the contest between the parties is pending.

6. In the facts and circumstances, as manifested by the material available on the record of the Court below, it cannot be said that the impugned order was unreasonable, for exercise of power by this Court. Accordingly, the writ petition is dismissed.

JUDGE