

Ct.
No.
652

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akb

03.05
2024

C.O. 1306 of 2020
Washeda Nikhat
-Versus-
Bank of Baroda & Ors.

Mr. Tarique Quasimuddin
Mr. Abbas Ibrahim Khan
Ms. Meena Shabnam **...For the Petitioner**

Service of notice is taken on record. Opposite parties are not represented.

Learned Counsel appearing on behalf of the petitioner herein contended that petitioner is a monthly tenant under the opposite party No. 3 herein in terms of tenancy agreement dated 22nd April, 2016. Petitioner's further case is although she made payment of the rent for her tenancy without any default but upon some reason or others, the opposite party No. 3 herein avoided to issue any rent receipt and most of the time cited the reason of being out of station. Since, January 2020, due to old age and faltering health, the petitioner herein is residing with her daughter and son-in-law at the suit flat. Petitioner's further case is that though she had demanded rent receipt on various occasions on payment of the rent, but opposite party No. 3 very cunningly assured petitioner herein that by the end of March, 2020, he himself will deliver all pending rent bills to her. Unfortunately by the end of March, 2020 Covid Pandemic started. In the meantime all on a sudden on 21st August,

2020 some unknown persons visited the suit flat of the petitioner and asked to vacate the suit flat within a week and in the event of failure to do so, warned the petitioner herein of legal repercussion.

As opposite party No. 3 refused to grant rent receipts the petitioner approached before the Rent Controller and thereby initiated R.C. Case No. 22/32 of 2020 under Section 32 of the West Bengal Premises Tenancy Act.

Thereafter the petitioner also filed a Title Suit, being T.S. 574 of 2020 before the Trial Court for a declaration that the plaintiff is a monthly recorded tenant under the landlordship of defendant No. 3, in respect of the suit flat and also for permanent injunction restraining the defendants No. 1 to 3 and their men and agents from dispossessing the plaintiff/petitioner herein from the suit flat.

A prayer for ad interim injunction was also moved before the Trial Court and the Trial Court vide order dated 4th September, 2020 granted ad interim injunction order restraining the defendant No. 3 from evicting the plaintiff from the suit property forcefully without due process of law for a limited period. Being aggrieved by the said order passed ex parte, the defendant/opposite party preferred a Miscellaneous Appeal before the Court below and the Court below by the order impugned, was pleased to vacate the

interim injunction order granted by the Trial Court on the ground that the plaintiff/respondent failed to convince the Court about his apprehension for granting an order of injunction.

Being aggrieved by that order, the plaintiff / petitioner has preferred the present application. This Court while admitted the present application vide its order dated 19th October, 2020 was pleased to grant status quo which thereafter extended till disposal of this application, relying upon the decision of the Hon'ble Apex Court in the case of *Vishal N. Kalsaria Vs. Bank of India & Ors.*, reported in (2016) 3 SCC 762.

Having considered the facts and circumstances of the case and considering the submissions made on behalf of the petitioner, let C.O. 1306 of 2020 is hereby disposed of with a direction upon the Trial Court to dispose of the main injunction application filed by the plaintiff preferably within a period of eight weeks from the date of communication of this order after giving opportunity to both the parties to contest and without granting any unnecessary adjournment to either of the parties.

The opposite parties herein / defendants are restrained from forcibly dispossessing the plaintiff from the suit flat, without taking due process of law, till disposal of

the main injunction application by the Trial Court.

However, I make it clear that I have not gone into the merits of the case and the Trial Court will dispose of the injunction application, without being influenced by any observations made hereinabove.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, on priority basis on compliance of all usual formalities.

(Ajoy Kumar Mukherjee, J.)