



Esha

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 53 OF 2024

GEORGE COUTINHO ... PETITIONER

Versus

LOURENCINHA RAIKAR @ L.R.
VIEGAS & ANOTHER ... RESPONDENTS

Mr. Shane Gomes Pereira, Advocate for the Petitioner.

Mr. John Abreu Lobo, Advocate for Respondent No. 1.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 24th JULY 2024

ORAL ORDER:

1. Heard Mr. Pereira for the Petitioner and Mr. Lobo for Respondent No. 1.
2. Vide order dated 19.06.2024, notice to Respondent No. 1 only was issued since the proceedings before the Rent Tribunal are contested by the Petitioner and Respondent No. 1.
3. The present Petition could be disposed of without issuing notice to Respondent No. 2 for the following reasons.

4. Respondent No. 1 claiming to be a tenant approached the Rent Tribunal by filing an Application under Section 18 of the Goa Buildings (Lease, Rent & Eviction) Control Act, 1968 [the Rent Control Act, for short] wherein it is claimed that the present Petitioner refused to accept the rent from Respondent No. 2.

5. Even though such proceedings were filed in the year 2012, the same are still pending and it is informed that the matter is at the final stage i.e. final arguments.

6. Respondent No. 1 filed an Application for permitting him to deposit the rent which is dated 09.08.2023. The said Application was opposed by the Petitioner and accordingly, the Rent Tribunal passed the impugned order dated 14.08.2023.

7. The learned Rent Tribunal while deciding such an Application filed by the tenant at Exhibit-61, deleted issue nos. 2 and 3, which has been challenged by the Petitioner before the Appellate Authority in Rent Revision No. 8 of 2023. The Revisionsal Authority dismissed the said Revision holding that the contentions raised by the Petitioner cannot be looked into as the order is legal and proper. The Petitioner, therefore, filed the present Petition challenging both these orders.

8. Mr. Pereira submits that first of all, the Petitioner who is claiming to be the owner of the suit premises, seriously objected to the landlord-tenant relationship and therefore, if the Application under Section 18 is allowed by the Rent Controller, it would amount to accepting such relationship between the parties. He submits that Section 18 of the Rent Control Act permits the tenant to deposit the rent which clearly means that there has to be a tenant-landlord relationship. He submits that the Petitioner raised a preliminary objection to such Application on the ground that there is no relationship as landlord-tenant and thus, such issue is required to be decided before the passing of the order on Application filed under Section 18 of the Rent Control Act.

9. He submits that the matter was taken up for inquiry before the Rent Controller and in fact, three issues were framed. He submits that issue nos. 2 and 3 deal with such a relationship between the landlord and the tenant. An inquiry was conducted by the Rent Controller and the matter was actually fixed for final arguments. At this stage, Respondent No. 1/tenant filed the Application dated 09.08.2023 thereby seeking permission to deposit the rent. He submits that while raising objection to such an Application, arguments were advanced and accordingly, the learned Rent Controller rejected such an Application. However, while rejecting the prayer for deposit of rent made in the year

2023, the learned Tribunal deleted issue nos. 2 and 3 on the ground that such issues are not required to be decided.

10. The Revisional Court also accepted such contentions of the Rent Controller by relying upon Sections 21 and 22 of the Rent Control Act.

11. Admittedly, the original Application under Section 18 of the Rent Control Act was filed in the year 2012. The tenant failed to file any Application along with it seeking permission to deposit the monthly rent during the pendency of main Application. The said Application under Section 18 of the Rent Control Act was opposed by the Petitioner by filing a reply wherein specific objections have been raised that there is no landlord-tenant relationship between the parties. The learned Rent Tribunal in fact, framed issues which are found in paragraph 13 of the order dated 14.08.2023 below Exhibit-61. Issue nos. 2 and 3 specifically deal with the landlord-tenant relationship between the parties.

12. The inquiry is complete wherein both the parties have led evidence. When the matter came up for arguments and even part arguments were advanced, an Application was filed by the tenant/ Respondent No. 1 on 09.08.2023 which is at Exhibit-61. In this Application, Respondent No. 1/tenant sought permission of the

Rent Tribunal to allow him to deposit the rent. While deciding such Application, the Tribunal deleted issue nos. 2 and 3.

13. It is required to be noted here that the issue/point for determination could have been disposed of or decided after hearing the arguments and there was no occasion for the Rent Tribunal to decide such Application and to delete issue nos. 2 and 3 in a different manner.

14. The inquiry under Section 18 of the Rent Control Act is considered to be a summary inquiry, thereby deciding whether there is a refusal to accept the rent by the landlord. In such circumstances, when issues were framed, the Tribunal could have decided all the issues together. By deleting such issues at the final stage, the learned Rent Tribunal has clearly exceeded its power when the entire matter could have been decided after hearing the arguments of both parties.

15. The Revisional Court failed to interfere with such order on the ground that these issues are not required to be decided in the proceedings under Section 18 of the Rent Control Act. However, the Revisional Court failed to consider that all issues are required to be decided finally when the inquiry was already complete.

16. The recourse which has been adopted by the Rent Controller is required to be interfered with in the supervisory jurisdiction with a direction to the concerned Tribunal to hear the arguments of the parties finally and to decide all issues framed therein.

17. It is also necessary to note that the matter is pending since last 12 years and thus, the Rent Controller shall dispose of such Application as expeditiously as possible and within a period of two months from the date of receipt of the order of this Court.

18. For all the above reasons and insofar as the deletion of issue nos. 2 and 3 is concerned, the impugned order is quashed and set aside.

19. The learned Rent Tribunal shall hear the arguments on all issues and decide it afresh.

20. Needless to mention that this Court has not gone into the merits of submissions with regard to issue nos. 2 and 3. The learned Tribunal shall not be influenced by the observations passed in the impugned order and shall decide the matter on its own merits, within a period of two months from the date of receipt of the order of this Court.

21. The Petition stands disposed of in the above terms.

BHARAT P. DESHPANDE, J.