



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

Writ Petition (WP) No. 1875 of 2024

Kishor S/o Maroti Nimje
Versus
Sunildutta S/o Virendranarayan Pandey

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri C.F.Bhagwani, Advocate for the petitioner.
Shri Y.B.Mandpe, Advocate for the respondent.

CORAM : PRAVIN S. PATIL, J.
DATED : 27th FEBRUARY, 2025.

Heard.

2. By way of present petition, the petitioner is challenging the order below Exhibit 56 in Regular Civil Suit No. 1 of 2015 passed by the Additional Judge, Small Causes Court, Nagpur dated 13th February, 2024.
3. In the present matter, suit was filed by respondent for eviction against petitioner on the ground

of *bona fide* need. The same was opposed by petitioner by filing written statement.

4. In the pending suit evidence of respondent was recorded. Now, the suit is fixed for recording the evidence of petitioner. In the meantime, respondent filed application for issuing direction to petitioner to deposit arrears of rent.

5. Learned trial Court after hearing both the parties by the impugned order dated 13th February, 2024 allowed the application by directing the petitioner to deposit the arrears of license fee in two installments and further to continue to deposit Rs.800 per month with effect from February, 2024 till the disposal of the suit. The said order is under challenge in the petition.

6. Heard Shri Bhagwani, learned counsel for the petitioner and Shri Mandpe, learned counsel for the respondent.

7. The case of the petitioner before the trial Court was that Smt. Satyabhamabai Vithobaji Nimje

had purchased the suit property vide registered sale-deed dated 9th November, 1981 and the present petitioner/defendant is the tenant of Smt. Satyabhamabai Nimje. He stated that he had purchased the suit property from the previous landlord and therefore he become the landlord of the suit property.

8. During the course of argument, petitioner has pointed out that in the pending suit, the present respondent/plaintiff during cross-examination admitted the fact that there is no relationship between him and respondent/plaintiff about the tenancy. In view of this admission, it is the contention of the petitioner that the application itself not tenable and consequently issuing any direction to pay monthly rent to the respondent/defendant by trial Court is not justified.

9. Per contra, learned counsel for the respondent pointed out that only the evidence of respondent/plaintiff is completed and the present petitioner/defendant is yet not enter into the witness

box. As such, at this stage, it cannot be concluded that the admission given by him is conclusive.

10. Respondent further stated that he had purchased the suit premises from the previous landlord and therefore in cross-examination, in that reference he had made a statement. However, petitioner is misinterpreting the said statement. The same will be clear after recording his evidence before trial Court.

11. Respondent stated that it is a pre-mature stage to draw the conclusion on the basis of his piecemeal statement recorded in his cross-examination. Before recording entire evidence before trial Court and decided the issue, no conclusion can be drawn at this stage. It is his submission that said admission is disputed and petitioner cannot be allowed to take benefit of same at this stage.

12. After going through the impugned order, I do not find any perversity in the findings recorded by the learned trial Court, particularly, the observation

made in paragraph 9 of the impugned order which is reproduced as under:

9. On perusal of the said record, it appears that the notice has been issued by the plaintiff to defendant, informing the defendant that he has become the owner of the suit premises. When notice of attornment is there on record, it appears that mere denial by the defendant that the plaintiff is not the landlord, will not suffice. The issue regarding the relationship between landlord and tenant will be decided on merit. However, till then defendant has to pay the rent or deposit the rent in the Court. He cannot use the suit premises free of costs. It is the duty of every tenant to pay the rent to landlord. If he fails to pay the rent, the landlord may initiate any proceeding u/s 15 of the Maharashtra Rent Control Act and defendant will not have the protection as given under Section 15 of the said Act.

13. Furthermore, the petitioner/defendant is not coming with a specific case by any documentary evidence to state that he has purchased the suit property from the earlier landlord. Only on the basis of statement of respondent in cross-examination, it will not be proper to hold that the petitioner/defendant is not tenant of respondent/plaintiff.

14. So also, the rent which was directed to be paid is minimum rent i.e Rs.800/- per month.

15. In view of this, I am of the opinion that, it is not a fit case to invoke extra ordinary jurisdiction. I find that no infirmity or error has been committed by learned trial Court. Hence, petition dismissed. No costs.

[PRAVIN S.PATIL, J.]