



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

WRIT PETITION NO.1162/2021

Jagdish s/o Vishwanath Gupta Vs. Bhagwaghar Family Trust, Nagpur

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

Court's or Judge's order

Mr.C.F.Bhagwani, Advocate for petitioner.
None for the respondent.

CORAM : ROHIT W.JOSHI, J.
DATE : SEPTEMBER 8, 2025.

1. Heard.
2. The petitioner-tenant has filed the present petition being aggrieved by concurrent decrees for eviction passed against him. The respondent-landlord is a Trust, which has filed a suit for eviction against the present petitioner under Sections 15 and 16 of the Maharashtra Rent Control Act, 1999. The said suit was registered as Regular Civil Suit No.440/2007. The learned Trial Court has decreed the suit vide judgment and decree dated 16.2.2018, in view of the Section 15 of the Maharashtra Rent Control Act, 1999 (hereinafter referred as "Rent Act"). The respondent-defendant preferred an appeal challenging the said decree for eviction in Regular Civil Suit No.201/2018, which is also dismissed vide judgment and decree dated 26.2.2020.
3. As regards arrears of rent, the learned Advocate contends that an attempt to pay rent was made by issuing cheques in favour of the respondent-landlord, however, the cheques were not deposited for realization by the respondent-landlord and, therefore, it cannot be said that the petitioner was in arrears of rent warranting a decree for eviction under Section 15 of the Rent Act could not have been passed.
4. As regards the contention that the rent though deposited was not accepted, perusal of the reply notice dated 9.9.2006 issued by the petitioner-

tenant does not indicate that any such contention was raised in the said reply notice. There is no satisfactory evidence from the side of the petitioner to establish the said contention. In that view of the matter, the contention regarding the landlord was not accepting the rent willfully also needs to be rejected.

5. Further contention of the learned Advocate for the petitioner is that the notice under Section 15 of the Rent Act issued by the respondent-landlord is not in accordance with Section 15 of the Rent Act in as much as the notice does not provide for 90 days period for making payment of arrears of rent. He, therefore, contends that the suit ought to have been dismissed.

6. Section 15(1) of the Rent Act provides that so long as the tenant pays, or is ready and willing to pay, the amount of rent and observes other conditions of the tenancy, a landlord will not be entitled for recovery of possession of tenanted premises. Section 15(2) of the Rent Act provides that in case the tenant is in arrears of rent, the suit for eviction shall not be instituted against the tenant till expiration of 90 days after notice of demand of rent is served by the landlord on the tenant. Thus, the suit for possession on the ground of arrears of rent cannot be filed before a period of 90 days from the date of service of demand notice. Section 15(3) of the Rent Act further provides that in a suit for eviction on the ground that the tenant has not paid the arrears of rent, the tenant can deposit the arrears of rent with the Court within a period of 90 days from the date on which suit summons are served on him. These arrears are required to be deposited along with simple interest @ 15% per annum. The tenant is also under obligation to pay or to deposit in the Court the amount of rent regularly. Thus, the tenant can avoid a decree for eviction by clearing the arrears of rent along with interest within a period of 90

days from the date of service of summons and by continuing to make payment of rent regularly. However, it is settled by catena of judgments that the time frame prescribed for clearing the arrears of rent is mandatory and that period for clearing the arrears cannot be extended beyond the period of 90 days as provided under the provision.

7. The learned Trial Court has recorded a finding that the petitioner-tenant was in arrears of rent for more than three months and did not pay the outstanding amount of rent initially in response to demand notice by respondent/landlord even after receipt of summons he did not pay or deposit the arrears of rent with the Court within a period of 90 days from the date of service of suit summons. It will be pertinent to mention that the learned Trial Court had passed order dated 22.08.2011 on application at Exhibit-30 directing the petitioner-tenant to deposit arrears of rent amounting to Rs.82,800/- for a period from the year 2005 to 2010 within a period of two months from the date of said order on or before 22.10.2011. It is recorded that the said amount was deposited on 11.11.2011. It is undisputed that this order dated 22.08.2011 is not challenged which implies that the petitioner-tenant accepted that he was in arrears of rent from 2005 to 2010 and deposited the amount accordingly.

8. As stated above, perusal of Section 15(2) of the Rent Act will demonstrate that although a suit for eviction on the ground of non-payment of standard rent or permitted increases cannot be filed against a tenant unless period of 90 days has expired from the date on which a demand notice is served on the tenant, the provision does not contemplate that the notice must specify the period of 90 days for clearing the arrears of rent. All that the provision contemplates is that suit for eviction cannot be filed before a period

of 90 days from the date on which demand notice is served on the tenant. The demand notice is dated 16.8.2006. The petitioner has issued reply to the said notice on 9.9.2006 which implies that the notice was served on or before 9.9.2006. The suit is filed on 14.12.2007 i.e. after a period of 90 days. It cannot be said that the suit is filed in defiance of the mandate of Section 15 (2) of the Rent Act.

9. It is thus clear that there is clear non-compliance of provision of Section 15 of the Rent Act by the petitioner/tenant. The decree for eviction on this ground is rightly passed by the learned Trial Court and is correctly confirmed by the learned First Appellate Court.

10. Having regard to the reasons aforesaid, no case is made out for interference in writ jurisdiction of this Court. Writ Petition stands dismissed. There shall be no order as to costs.

(ROHIT W. JOSHI, J.)