

Evi. - 03/2017

Order

22-02-20

Plaintiffs and defendant have filed their attendance. Case called out but defendant has not appeared before the Court. Record is put up for hearing on defendant petition dated 09-01-2020 filed U/O7 R11 of CPC. Rejoinder has been filed by plaintiffs on dated 19-02-2020. plaintiff counsel appeared and adduced their argument on the above petition. No one appeared on behalf of defendant to adduce their side.

In their petition dated 09-01-2020, defendant has stated that this suit is filed for eviction and also for the recovery of arrears of rent. It is stated that there is no relationship of landlord and tenant between the parties. It is further stated that no rental was fixed between the parties under any agreement. It is further stated that the fixation of rental as alleged by plaintiff is not final and is under challenge in appeal. It is stated that there is no reason to proceed with the present suit and prayed to reject the suit.

On the other hand, plaintiffs have stated in their rejoinder that defendant petition is not maintainable. It is also submitted that relationship of landlord and tenant is already in record and rent order of house controller is in operation. It is prayed to reject the petition of defendant as no provisions of O7 R11 of CPC are applicable on the cases filed under B.B.C. Act.

Heard plaintiff counsel and perused case record. In a petition of rejection of plaint, court has to consider only plaint as a whole and if plaint attracts any provisions of O7 R11 of CPC then plaint can be rejected. Here, defendant has filed petition under O7 R11 of CPC but defendant, in his petition, has not disclosed any ground upon which plaint can be rejected. In my opinion, facts stated by defendant in his petition dated 09-01-2020 do not attract any clause of O7 R11 of CPC. Hence, defendant petition dated 09-01-2020 is hereby rejected.

Fixed on dated 12-3-20 for Sec.89 CPC.


Munsif, Patori