

In The Court of Sh. Sanatan Prasad,
Additional District Judge-01, (East),
Karkardooma Courts, Delhi.

Suit No.662/17

In the matter of :-

Ms. Shipra Pandotra

.....Plaintiff

Versus

Sh. Manoj Aggarwal

.....Defendant

**Application by and on behalf of plaintiff, U/o 39 rule 10 CPC,
for issuance of direction, against the defendant to pay admitted
monthly rent & arrears of rent, till final disposal of case.**

Present: Sh. M L Sharma, ld. counsel for plaintiff.
Sh. Dinesh Garg, ld. counsel for defendant.

ORDER
24.12.2018

1. Vide this order, I shall dispose of, an application U/o 39 rule 10 CPC, filed by the plaintiff, on the averments that the present suit has been filed by the plaintiff for recovery of possession and arrears of rent and defendant has admitted the relationship of landlord and tenant, execution of lease deed, also rate of rent, in his written statement, but, he is intentionally and malafidely, withholding her legitimate amount, since August, 2017 onwards @ Rs.37000/- per month. The defendant had paid part payment of Rs.31000/-, as rent, for the month of April, 2017 and withheld remaining amount of Rs.6000/-. Further, defendant had paid part payment of rent of Rs.30000/- for May to July, 2017 and withheld remaining amount of Rs.7000/- each month,

accordingly, defendant is liable to pay balance amount of rent of Rs.27000/- w.e.f. April to July, 2017. A legal notice, dated 05.09.2017, was served upon the defendant, thereby, terminating his tenancy, also demanding vacant possession and arrears of rent, from 01.08.2017 onwards, also the above amount of Rs.27000/- and receiving of notice is admitted by defendant in para 9 of his WS. The tenancy of defendant got expired on 31.08.2017, but, he did not vacate, nor paid the monthly rent and prayer is made for directing the defendant to pay the rent/arrears of rent, as above. Reply to this application has been filed, thereby, denying all the averments, made in the application, and prayer is made for dismissal thereof with heavy costs.

2. I have heard ld. counsels for the parties and carefully, perused the material, available, on the record and from the perusal of Term-'2', at page No.2, of the 'Lease Deed', dated 28.12.2011, it appears that defendant was inducted as tenant in the suit property bearing No.E-77, Preet Vihar, Delhi-110092, on a monthly rent of Rs.30,000/-, for a period of 24 months, with a lock-in period of 12 months, w.e.f. 01.01.2012 until 31.12.2014, subject to increase of 10% in rent after 12 months and lease shall be extendable at the option of both Lessor & Lessee, on such terms and conditions, as may be mutually agreed between the parties and the rent shall be paid through Account RTGS/NEFT/Telegraphic transfer on or before the 10th day of each calendar month, in advance for the relevant month and the rental amount shall be paid through cheque/telegraphic

transfer, in the name of Mrs. Shipra Pandotra and non-receipt of rent, in time, for two consecutive months after expiration of the initial 11 months of lock-in period will result in automatic termination of this lease. Further, from the perusal of Term-'3' of the above lease, it appears that Lessee had paid the Lessor interest free refundable security deposit of Rs.90,000/-, through cheque No.000443, dated 27.12.2011, drawn on ICICI Bank, Ansari Road, Branch Darya Ganj, Delhi, in favour of Mrs. Shipra Pandotra and at the end of the lease period or early expiry of this agreement, the above mentioned security deposit will be refunded, after deduction of all dues, including but not limited to electricity charges, water charges, gas charges, telephone and Internet charges, damages, if any etc. to the lessor, against the lessee, handing over peaceful vacant possession of the demised premises back to the lessor, failing which an interest of 18% would be payable by the lessor on the deposit amount. From the perusal of sub-para of para 3, it further appears that upon the expiry of this lease deed, as the case may be, in case the lessee continues to occupy the demised premises for whatever reason and fails to deliver peaceful vacant possession of the demised premises to the lessor for no fault of lessor, the lessor shall be entitled to receive a sum of Rs.5000/- per day from the lessee towards the use and occupation of the premises for the first three months of such occupancy and @ Rs.10,000/- per day for the remaining period, payable weekly in advance. The lease was, again, extended vide 'Lease Deed',

dated 20.11.2014, on a monthly rent of Rs.37000/-, for a period of 11 months, with a lock-in period of 2 months, w.e.f. 01.12.2014 until 31.10.2015 alongwith conditions, as stated above. The lease was further, extended, vide 'Lease Deed', dated 20.10.2015, on a monthly rent of Rs.37000/-, for a period of 11 months, with a lock-in period of 2 months, w.e.f. 01.11.2015 until 30.09.2016 alongwith conditions, as stated above. The lease was again further extended, vide 'Lease Deed', dated 16.09.2016, on a monthly rent of Rs.37000/-, for a period of 11 months, with a lock-in period of 2 months, w.e.f. 01.10.2016 until 31.08.2017 alongwith conditions, as stated above. No dispute is raised by the defendant with respect to relationship of landlord and tenant, execution of lease deed/(s), as above, rate of rent, in his written statement, but, a ground is taken in para-'iii', of the preliminary objections to the written statement, that during 'Demonetization' in November, 2016, the husband of the plaintiff approached the defendant and demanded a sum of Rs.5 lakhs, which he had to pay to a person and keeping in mind, the good relations, developed with the husband of the plaintiff, the defendant had handed over him a cheque of Rs.5 lakhs, bearing cheque No.692216, drawn on Janta Co-operative Bank, which was credited into the account of one Sunny Arora, on 26.12.2016, and perusal of the copy of the passbook of The Janta Co-operative Bank Ltd., in the name of the defendant, it appears that a cheque No.692216 of Rs.5 lakhs was credited into the account of Sunny Arora, but, this fact is

not admitted by the plaintiff, in any manner and further, this cheque was never issued by the defendant in the name of plaintiff or her husband, so, this plea, raised, by the defendant, is not acceptable at all, hence, declined.

3. From the perusal of the order, dated 03.07.2018, it appears that defendant was directed to immediately pay the rent for the period of 11 months, due till 30.06.2018 @ Rs.30000/- per month, totaling to Rs.3,30,000/- and further rent shall also be payable on this rate of rent only, until the present application is adjudicated and on that day, ld. counsel for defendant had submitted that he would pay the rent, as above, for 13 months, within a period of two months and latest by 04.09.2018 and in compliance of the order dated 03.07.2018, the defendant had paid only Rs.50,000/- on 04.09.2018 and sought one month time to make the remaining payment of Rs.2,80,000/-, on the ground that his bank account has been sealed, accordingly, opportunity was granted subject to cost of Rs.10,000/-, for payment of remaining rent of Rs.2,80,000/-, which also added upto Rs.3,40,000/- and matter was adjourned for 04.10.2018. On 04.10.2018, defendant had filed written statement and sought one week time to furnish complete details regarding payment, also seizure order of the bank account, held in the name of defendant in RBL Bank, Branch Office, Jagriti Enclave, Delhi, in S.B.A/c No.309004600835, having credit balance of Rs.3,10,000/-, as on that day and also to furnish affidavit for release of payment to the plaintiff, directly, under the court

order and adjournment was allowed subject to further cost of Rs.10,000/-, for 16.10.2018. On 04.10.2018, defendant handed over the keys to the ld. counsel for the plaintiff and both the parties were directed to visit the tenanted premises and inform on the next date, if the premises stands vacated in order. But, on 16.10.2018, defendant stated that he was unable to pay the cost of Rs.20,000/- on account of seizure of some bank account and plaintiff was directed to furnish an affidavit regarding total dues inclusive of cost of Rs.20,000/-. The plaintiff has placed on record her affidavit, also computer generated statement of account, copies of electricity bill and water bill, and photographs of the suit property. From the perusal of the statement of account, placed on record, by the plaintiff, it appears that defendant was paying rent @ Rs.37000/- per month, to the plaintiff; Copy of the electricity bill shows an outstanding amount of Rs.6692.66p, as on 14.10.2018; And further, the copy of water bill shows an outstanding amount of Rs.15194/- as on 20.09.2018. The details of outstanding amount, on account of arrears of rent, electricity bill and water bill, shows that total amount of Rs.4,51,660.65, after adjusting security amount of Rs.90,000/-, is due and recoverable from the defendant, from April, 2017 till 04.10.2018 (i.e., on the date of vacation of the suit premises) and it is not controverted by the defendant, in any manner. Hence, the claim of the plaintiff, appears to be legitimate, for which, she is entitled to recover from the defendant. Accordingly, the present application, filed

by the plaintiff, U/o 39, rule 10, CPC, is hereby allowed and the defendant is directed to pay arrears of rent @ Rs.6000/- for April, 2017, @ Rs.7000/- each, for May to July, 2017 and @ Rs.37,000/- per month from August, 2017 onwards till 04.10.2018, (i.e., on the day of vacation of suit premises), also cost of Rs.20,000/-, imposed, as above, and electricity bill of Rs.6692.66p, also further, water bill of Rs.15194/-, after deducting the amount of Rs.50,000/-, as already paid, within 45 days from today. Application stands disposed off. The plaintiff has sought the relief of use and occupation charges of Rs.1,65,000/- w.e.f. 01.09.2017 to 03.10.2017, and also damages to the premises, if any, in question, are the triable issues and evidence is required for the same, to be led by the parties. Accordingly, the matter is put up for further proceedings/framing of issues. Parties to be present in person, on 01.04.2019.

Announced in the open
Court on 24.12.2018

(Sanatan Prasad)
Additional District Judge-01
(East)/KKD/Delhi / 24.12.18