

**IN THE COURT OF SH. RAMESH KUMAR-II,
ADDITIONAL DISTRICT JUDGE-01
SHAHDARA DISTRICT, KARKARDOOMA COURTS:
DELHI**

Civil Suit No. 178/22

In the matter of:-

Sh. Robin

.....Plaintiff

Versus

Sh. Santosh Kumar

.....Defendant

05.04.2024

ORDER

Vide this order I shall dispose of the application of the plaintiff under order XII rule 6 read with section 151 of the Code of Civil Procedure (for short 'CPC').

No formal reply to this application has been filed on behalf of the defendant.

Arguments on this application were heard on behalf of the parties.

During the course of arguments, ld. Counsel for plaintiff submitted that the defendant is the owner of property bearing no.F-1/34-35, F-1 Block, Sunder Nagri, Delhi-110093 and the plaintiff had taken two shops on rent in the abovesaid property for a period of three years w.e.f. 18.07.2018 to 17.07.2021 at the rate of rent of Rs.1 lac per month vide two rent agreements. Ld. Counsel for plaintiff further submitted that the plaintiff had also paid a total security amount of Rs.25 lacs to the defendant

towards the abovesaid two shops at the time of execution of rent agreements and as per terms and conditions thereof the abovesaid security amount was to be refunded at the time of handing over the physical possession of the tenanted shops. Ld. Counsel for plaintiff further submitted that the plaintiff was regularly paying the rent to the defendant and paid the rent in cash towards tenanted shops till 17.09.2020 but on 18.02.2021, the defendant had taken illegal possession of the tenanted shops in the absence of the plaintiff and without returning the security amount to the plaintiff. Ld. Counsel for plaintiff further submitted that entire articles/mobile phones lying in the tenanted shops including essential documents, records, bill book, rent receipts were also missing from the shops.

Ld. Counsel for plaintiff further submitted that the defendant has filed his written statement in the present case and he has admitted in para no.5 of preliminary objection of the written statement that “the plaintiff had also paid a security amount of Rs.25 lacs at the time of taking on premises on rent”.

Ld. Counsel for plaintiff further submitted that the defendant falsely alleged in his written statement that he had already adjusted the security amount against the due rent and a balance of Rs.529400/- is still due upon the plaintiff. Ld. Counsel for plaintiff further submitted that the plaintiff was regularly paying the rent towards the tenanted shops, being so the question of adjusting the rent from the security amount does not arise at all and moreover the defendant has no legal right to adjust the security amount against the rent of his own.

Ld. Counsel for plaintiff further submitted that the defendant has filed a false reply to the application of the plaintiff

wherein he falsely alleged that he had adjusted the security amount against the due rents of the shops, however the defendant has no legal right to adjust the amount of security against the due rent.

After making abovesaid submissions, Id. Counsel for plaintiff requested to pass a decree of Rs.25 lacs in favour of the plaintiff and against the defendant in view of the admission of the defendant in written statement.

Per contra, Id. Counsel for defendant vehemently opposed the present application, submitting that the defendant in his written statement has admitted that the plaintiff has paid a security amount of Rs.25 lacs at the time of taking the premises on rent but the plaintiff was a habitual defaulter in paying the rent and he had not paid the rent since the inception of the tenancy till date and as such the defendant has adjusted the security amount against the due rent and even a balance of Rs.529400/- is still due against the plaintiff, for which he has already issued a legal notice to the plaintiff on 16.10.2020.

Ld. Counsel for defendant further submitted that the present application is false, frivolous, baseless and the same is liable to be dismissed with heavy costs as there is no specific admission on the part of the defendant on the basis of which decree may be passed in favour of the plaintiff and against the defendant.

Ld. Counsel for plaintiff has also filed written submissions.

I have considered the submissions made before the court and also perused the material available on record.

Before appreciating the rival contentions of the parties, it

is necessary to refer the relevant provisions of law i.e. Order XII Rule 6 of the Civil Procedure Code which provides as under:-

ORDER XII RULE 6 -

6. Judgment on admissions- *(1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.*

(2). Whenever a judgment is pronounced under sub-rule (1), a decree shall be drawn up in accordance with the judgment, and the decree shall bear the date on which the judgment was pronounced.

Order 12 Rule 6 CPC empowers the court to pass judgment where the parties have admitted the facts in their pleadings or otherwise, whether oral or in writing. The judgment under this provision can be passed at any stage of suit either on the application of the parties or by the court on its own motion without waiting for the determination of any other question between parties.

The object of Order XII Rule 6 CPC is to enable the parties to obtain a speedy judgment at least to the extent of the relief, plaintiff is entitled to as per the admission of the defendant. In case of “**Charanjit Lal Mehra and Ors. Vs Smt. Kamal Saroj Mahajan and Anr.**” AIR 2005 SC 2765, the Hon'ble Supreme

Court has held that order 12 Rule 6 CPC is enacted for the purpose to expedite the trials and if there is any admission on behalf of the defendants or an admission can be inferred from the facts and circumstances of the case without any dispute of the matter, then in such a case, in order to expedite and dispose of the matter such admission can be acted upon.

A bare perusal of the written statement filed by defendant shows that defendant has not made any unequivocal admission as claimed by the plaintiff in his application, rather it has been asserted by the defendant in preliminary objections no.5 of written statement that *“That it is also submitted that the plaintiff had also paid a security amount of Rs.25 lacs at the time of taking on the premises on rent”*. Simultaneously the defendant had also stated in preliminary objection no.5 that *“Now the defendant had already adjust the security amount against the due rent. And a balance of Rs.529400/- is still due against the plaintiff”*. It appears that the plaintiff has picked up some words from the written statement according to his own choice for getting the judgment on admission in his favour. Therefore, this court is of the view that there is no clear cut, unconditional or unequivocal admission on the part of the defendant.

The defendant has also taken the defense in his written statement that the plaintiff did not pay the rent to the defendant since the inception of the tenancy till date, except the payment of amount of Rs.417600/- through cheques. The plaintiff claims that he was paying the rent regularly to the defendant. Needless to state that the plaintiff has to prove in trial that he was regularly paying the rent to the defendant and there was no due rent payable to the defendant. Therefore, this court is of the opinion

that the present case cannot be decided without leading evidence by the parties as there are triable issues involved in the present matter and as such the plaintiff is not entitled for judgment in the suit at this stage. The application of the plaintiff under order XII rule 6 CPC is accordingly dismissed.

It is made clear that nothing said herein above shall affect the merits of the case or prejudice the rights of any of the parties.

Application stands disposed off.

(Typed to the dictation directly, corrected and pronounced in open court on 05.04.2024).

**(RAMESH KUMAR-II)
ADDL. DISTRICT JUDGE-01
SHAHDARA DISTRICT
KARKARDOOMA COURTS
DELHI**