

Order below Exh.6 in H.R.P. Suit No.352/2018**Appearance:-**

Mr. A. G. Learned advocate for the
Mansuri, plaintiffs.

Mr. S. J Thaker, Learned advocate for the defendant.

Coram: Mr. Daxesh Rajeshkumar Jaguwala, Judge.

O R D E R

1) The plaintiffs have filed the present application to get temporary injunction against the defendant.

2) The brief facts of the plaintiffs' case are as under:-

The predecessor of defendant had rented the suit premises narrated in para-1 of the plaint from the predecessor of plaintiffs at the monthly rent of Rs.20/- and liability to pay all types of taxes and light bill on the tenant and after the death of defendant father, the defendant becomes the tenant of the suit as per the provisions of the Rent Act. The plaintiffs came to know the defendant is trying to change the original structure of suit premises without taking permission from the plaintiffs under the guise of repairing the suit premises and as the defendant has no need the suit premises, the defendant may let or sublet the suit premises illegally to third party by taking huge premium and the conduct of the defendant is amounting nuisance and annoyance to the neighbouring persons. The plaintiffs have require the suit premises for their

personal and bonafide requirement as the plaintiffs have huge family. Therefore, the plaintiffs have filed this suit as well as present application and prayed relief as per para-12 of this application against the defendant.

3) The defendant has been duly served summons / notice of the suit as well as this application and the defendant has appeared before the Court through his learned advocate and filed his written statement vide Exh.24 and denied almost all the facts of the plaintiffs' case and contended that the plaintiffs have not given legal notice to the defendant before filing of this suit and therefore, the plaintiffs have breached the conditions of the Rent Act. The predecessor of the defendant had rented the suit premises from the predecessor of the plaintiffs at the monthly rent of Rs.30/- and thereafter, it has been decided monthly rent of Rs.60/- from date 01.12.1999 and the defendant is using the suit premises as per provisions of the Rent Act. The defendant has paid rent up to August 2018 but the plaintiffs have not given rent receipt to the defendant from May 2018 to August 2018 and the defendant has deposited rent amount in the Hon'ble Court from September 2018 to February 2019 and the defendant has paid municipal tax and light bill regularly. The plaintiffs have fabricated false facts and filed this suit. The defendant is residing in the suit premises and using the suit premises. Rest of the say of the defendant however is in

denial. Therefore, the defendant has prayed to reject the suit as well as present application with cost.

4) Considering the pleadings, record and arguments advanced by learned advocate for both the parties, it prima facie appears that the plaintiff is a landlord of the suit premises and the predecessor of the defendant had rented the suit premises from the predecessor of the plaintiff and the defendant is in possession of the suit premises. Thus, from the record, it appears that there is relationship of landlord and tenant between the plaintiff and the defendant. Now, the plaintiff has apprehension that the defendant will transfer or assign suit property to third party and the defendant will carry out permanent construction under the guise of repairing without permission of the plaintiff and if the prayer asked by the plaintiff will be granted then the defendant will not suffer any hardship rather than plaintiff as the plaintiff is a landlord of suit premises and the defendant has no right to sublet or transfer or assign suit premises to third party and also no right to carry out any construction without prior permission of the plaintiff or competent authority. Thus, at this juncture, the plaintiff has prima-facie case and balance of convenience is also in favour of the plaintiff rather than the defendant and if defendant is not prevented from transferring suit premises to third party or from carrying out any construction

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work in the suit premises then the irreparable loss may cause to plaintiff which is not compensated in terms of money. My learned predecessor has passed an order of ad-interim injunction and looking to the rival contention raised by both the parties, it seems necessary to absolute the earlier order of ad-interim injunction of suit property till final disposal of the suit. Hence, I pass the following order:-

O R D E R

- (1) The present application of the plaintiff is hereby allowed.
- (2) Earlier order of ad-interim injunction is hereby made absolute till final disposal of the suit.
- (3) Costs shall be cause in a suit.

Signed and pronounced in the open Court today on this 4th day of February, 2019.

Ahmedabad.

Date: 04/02/2019.

(Daxesh Rajeshkumar Jaguwala)
Chamber Judge, UIC No.GJ00973,
Small Causes Court,
Ahmedabad.

RATHOD.