

ORDER BELOW EXH.6 IN H. R. P. SUIT NO.69 of 2016.

Mr.S. T. Agrawal, learned advocate for the plaintiff.

Mr.K. D. Choksi, learned advocate for the defendant.

Coram : Chirag K. Pipalia, Judge.

1 The plaintiff has instituted this suit against the defendant-landlord and has prayed for interim relief in terms of Para-13(A)of this application. That as this application at Exh.6 is part and parcel of this order, I do not reiterate, for the sake of brevity, contents of this application.

2 That on service of summons, the defendant appeared through his advocate and has filed his reply vide Exh.25 wherein the defendant has categorically denied almost all the facts of the plaintiff's suit and application and contended that plaintiff's suit is barred by non-joinder of parties; denied the arrears of rent; and contended that he used the suit premises for godown purpose and for that no need of electricity, and therefore, disconnected the electricity and denied the subletting of the suit premises and prayed for dismissal of the application of the plaintiff.

3. The plaintiff has filed the rejoinder affidavit vide Exh.36 and denied almost all the contents of the reply filed by the defendant and contended that suit premises is not in dilapidated condition and not requires repairing.

4. To decide the application following issues are arose for my consideration.

I S S U E S

- 1 Whether plaintiff proves that he has prima facie case?
 - 2 Whether plaintiff proves that balance of convenience is in his favour ?
 - 3 Whether plaintiff proves that he has to face irreparable injuries ?
 - 4 What order?
5. My findings for the above issues with reasons are as under:
1. In the affirmative.
 2. In the affirmative.
 3. In the affirmative.
 4. As per final order.

R E A S O N S

That all these issues are inter connected and the discussion in respect of the same, I assign my reasons for all these issues together.

Issue Nos.1 to 3.

6. Heard, the learned advocates for the parties. I have gone through the record and in view of the facts of the case on hand, the present plaintiff has sought interim injunction as per Para-13(A) restraining the defendant, his men, agents,

servants from transferring, assigning or subletting the suit premises to any third party in any other manner. I have gone through the pleadings as well as record of the case, the plaintiff has produced documentary evidence vide list at mark-4/1 to 4/9 wherein mark-4/3 & 4/4 are the copy of rent receipts wherein name of "Translink Travels" is mentioned, mark-4/5 copy of municipal tax bill of the year 2013-14 and mark-4/6 is the computerized status of municipal tax wherein name of the "Jay Ambe Transport" shown as "occupier" and as per Court commissioner report vide Exh.12 the commissioner has observed the layers of dust, disconnected electricity connection and noted the board of " Bajaj Air Cooler Service Camp, Bajaj Customer Care" and other board in the name "Wind Engineering Ruchi Air cooler". Thus, on perusal of entire record, it reveals that if the defendant is not prevented by any order of injunction, the same will certainly prejudice the rights of the plaintiff and it will cause irreparable injury to the plaintiff which cannot be compensated in terms of money and same will also create multiplicity of proceedings and in this view of the matter, the plaintiff has prima facie case, balance of convenience is in his favour and hence in my humble opinion, I decide the issue Nos. 1 to 3 in the affirmative and in the interest of justice, I pass following order in respect of issue No.4.

:- O R D E R -:

- 1 The application of the plaintiff is hereby allowed.
- 2 The earlier order dtd.18/02/2016 below Exh.6 is hereby made absolute till final disposal of this suit.
- 3 Costs in the cause of the suit.

Pronounced in the open Court today i.e.9th day of December,2016.

(Chirag K. Pipalia)
Judge
Code No.GJ00994
Small Cause Chamber Court
Ahmedabad.