

**ORDER ON IA NO.8**

Plaintiff present.

Both advocates are present.

Advocate for defendant filed a memo along with certified copy of the order passed by the Hon'ble High Court of Karnataka, Bengaluru in W.P.No.33892/2024. The Hon'ble High Court of Karnataka disposed of the writ petition with the following observations;

- i. This petition is disposed of.*
- ii. Liberty is reserved to the defendant to putforth all his claim both by way of oral and documentary evidence.*
- iii. Adduce any further evidence, if required urge all contentions with regard to the excess amount, if any paid.*
- iv. The Commercial Court shall consider the same and pass suitable orders in accordance with law.*
- v. It is made clear that this Court has not expressed any opinion on the merits of the matter.*
- vi. Liberty is reserved to both the plaintiffs and the defendant to adduce further evidence, if required and proceed further in the matter.*
- vii. The suit is of the year 2024, hence the Commercial Court shall dispose of the suit expeditiously.*

Heard both the sides on IA No.8 which is filed by the defendant U/o.11 Rule 5 r/w Sec.151 of CPC seeking

permission to produce a copy of Lease Deed dated 05.03.2021 and to mark the same through DW.1.

The plaintiff filed the suit seeking a decree of eviction, arrears of rent uptill November 2023. He has also sought the damages from December 2023 until handing over of vacant possession.

In the plaint the plaintiff pleaded that he has issued a legal notice dated 20.12.2023 U/Sec.106 of the Transfer of Property Act and terminated the tenancy. Post termination of tenancy the plaintiff seeking for damages. In order to ascertain the damages the defendant has sought to produce the Lease Deed dated 05.03.2021, the property of the Lease Deed dated 05.03.2021 is said to have situated very close to the suit property.

In the present suit this Court may pass a judgment *inter-alia* declaring that the plaintiff is entitled for damages from December 2023 until handing over of vacant possession. If such a decree is passed in favour of the plaintiff, the plaintiff may initiate final decree proceedings requesting the Court to ascertain the actual damages.

In FDP proceedings the parties are at liberty to adduce their respective evidences. Therefore, production of Lease Deed dated 05.03.2021, at this stage is unwarranted. The defendant is at liberty to produce the Lease Deed dated 05.03.2021 in the FDP proceedings.

**Com.O.S.No.487/2024**

By this observations IA No.8 filed U/o.11 Rule 5 of CPC is disposed of. Since the evidence is already over, the matter is posted to arguments on merits by 14.01.2026.

**(JITHENDRANATH C.S.)  
LXXXVI A.C.C. & S.J., Bengaluru**