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**IN THE COURT OF LXXXIII ADDL. CITY CIVIL & SESSIONS JUDGE,
COMMERCIAL COURT, BENGALURU (CCH-84)**

**Present: Sri S. Sudindranath, LL.M., M.B.L.,
LXXXIII ADDL. CITY CIVIL & SESSIONS JUDGE
BENGALURU.**

COM.OS.No.1218/2023

Dated on this 5th day of April 2024

Plaintiffs

Mr.Mohammed Ayub Ahmed and
another

**(By Sri.P.M.Narayana Swamy,
Advocate)**

// versus //

Defendants

Sri.Vijay Kumar and another

(By Sri.Eashwar Prasad .B, Advocate)

IA No.2

**Applicants/
Plaintiffs**

1. Mr.Mohammed Ayub Ahmed,
S/o late Mohammed Iqbal Ahmed,
aged about 50 years.
2. Smt.Seher Taj,
W/o Mohammed Ayub Ahmed,
aged about 39 years.

Both are residing at :
No.357, 3rd Cross, 1st Block,
R.T.Nagar,
Bengaluru-560032.

**(By Sri.P.M.Narayana Swamy,
Advocate)**

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// versus //

**Respondents/
Defendants**

1. Sri.Vijay Kumar,
S/o Ramachand,
Aged about 33 years.
2. Smt.Soni Kesarwani,
W/o Vijay Kumar,
Aged about 28 years.

Both are residing at:
Sweet Home Apartments,
No.36/3, AALCO Layout,
Byadarahalli, Benson Town,
Bengaluru-560046.

Also at:
"VRS PALACE"
No.9, 1st Cross,
Shivaram Karanth Nagar,
Next to Bharath Petrol Pump,
Bengaluru-560077.

(By Sri.Eashwar Prasad .B, Advocate)

(i)	<i>Provision under which the application is filed</i>	<i>Section 151 of CPC</i>
(ii)	<i>Relief sought for</i>	<i>Deposit of arrears of rent</i>
(iii)	<i>The date on which the application is filed</i>	<i>1-02-2024</i>
(iv)	<i>No. of the application</i>	<i>IA No. 2</i>
(v)	<i>The date on which the objections are filed by different opponents</i>	<i>26-02-2024</i>
(vi)	<i>The date on which the orders were passed on the said application</i>	<i>05-04-2024</i>

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**ORDERS ON I.A.No.2**

This is an application filed by the plaintiffs under section 151 of CPC to direct the defendants to deposit arrears of rent from May 2023 to January 2024 at the rate of Rs. 3 lakhs per month and January 2024 at the rate of Rs. 330,000/= per month totally amounting to Rs. 27,30,000/=.

2. The stage of the main suit is that pleadings are complete, but stage of inspection of documents and filing of statement of admission and denial of documents is not complete.

3. The defendants have filed detailed objections to the present application.

4. I have heard both sides and perused the records of the case.

5. The only point that arises for my consideration is :-

Whether IA No. 2 deserves to be allowed and the defendants should be directed to deposit sum of Rs. 27,30,000/= into court as prayed for?

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6. My answer to the above point is **as per finding** for the following :-

REASONS

7. The facts in brief are that this is a suit filed by plaintiff No. 1 and 2 against defendant No. 1 and 2 for ejectment of defendants from the suit schedule property, for arrears of rent of Rs. 12 lakhs and damages at the rate of Rs. 5 lakhs per month from the date of termination of tenancy and direction to the defendants to pay TDS and GST charges and to restrain the defendants from removing furniture and fixtures from the suit schedule property and direction that plaintiffs are at liberty to forfeit advance amount towards arrears of rent and towards lock-in period rent and enquiry into mesne profits.

8. The suit is filed on the premise that the defendants are the tenants of the plaintiffs in respect of suit schedule property under the rental agreement dated 23-10-2022 and revised rental agreement dated 6-12-2022.

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9. The defendants have entered appearance and filed detailed written statement wherein they admit that the defendants are the tenants of suit schedule property under the rental agreement dated 23-10-2022 and revised rental agreement dated 6-12-2022. However, it is the case of the defendants that, they have invested Rs. 1 crore for development of the Suit Schedule property and they have paid the rent up to May 2023, but in May 2023, the road leading to Suit Schedule property was dug up by BWSSB, as a result of which the defendants could not let out the Suit Schedule property as function hall and only in the first week of October, the drainage was closed and they have paid the agreed rent up to date by cash on 4-10-2023 to the plaintiffs and therefore, they are not in arrears of rent and contending that termination of tenancy is unlawful, they have prayed for dismissal of the suit.

10. Under the present IA, the plaintiffs are seeking direction to the defendants to deposit arrears of rent at the rate of Rs. 3 lakhs per month from May 2023 to January 2024 and rent for

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January 2024 at the rate of Rs. 3,30,000 viz. total sum of Rs. 27,30,000.

11. In the objections filed by the defendants to the present application, the contentions of written statement are reiterated and it is ultimately contended that the defendants have paid the rent up to May 2023 and thereafter the defendants could not use the Suit Schedule property as a function hall due to the road being dug up by BWSSB and anyhow once the said work was completed on 4-10-2023, the remaining arrears up to date were paid by cash and therefore there is no question of plaintiffs again seeking arrears of rent and prayed for dismissal of the application.

12. Having considered the rival contentions, I am of the view that the relief sought for in IA No. 2 to direct the defendants to deposit arrears of rent from May 2023 to January 2024 **cannot be granted at this stage because** there is a serious dispute between the parties in respect of the entitlement of the plaintiffs to the said arrears of rent because, according to defendants, they have paid the arrears

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in October 2023 by cash. Even otherwise the arrears of rent is subject matter of trial since one of the suit claims is for arrears of rent and therefore the final relief cannot be granted at interim stage by directing deposit of arrears of rent.

13. However I am of the view that the **relief has to be moulded** by exercising inherent powers of the court, in order to ensure that, the defendants who are admittedly the tenants under the admitted lease agreements do not squat over the property without paying the rent. Permitting the defendants to take advantage of the present litigation and squat over the property without paying rent would be a travesty of justice and would permit the defendants to take benefit of the litigation and would put a premium on the delay in litigation. It is to be noted that, in this case, there is absolutely no dispute that defendants are the tenants under the plaintiffs and the admitted rate of rent is Rs. 3 lakhs per month. In this regard in the written statement of the defendants at paragraph 6, it is pleaded by the defendants that, they are the tenants in respect of Suit Schedule property on monthly rent of Rs. 3 lakhs and they are in occupation and running

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function Hall named as VRS Palace and that they have entered into rental agreement on 23-10-2022 and revised rental agreement on 6-12-2022 and the plaint averments to that effect are true and correct. Therefore, there is no dispute regarding jural relationship of landlord and tenant between plaintiffs and defendants and there is also no dispute regarding the rate of rent at Rs. 3 lakhs per month.

14. The Hon'ble High Court of Karnataka has laid down the law in ***Bangalore Builders (P) Ltd. v. P.P. Anthony, reported at ILR 1978 Kar 782*** that, by exercise of inherent powers, the court can direct the defendants / tenants to pay the admitted rate of rent during the pendency of the suit. As already noted Supra, this is a fit case to exercise the said inherent powers by this court because the defendants who are admittedly the tenants should not be permitted to squat over the Suit Schedule property during the litigation without paying the rent. It is to be noted that, it is nowhere the contention of the defendants that they have paid any amount towards rent or damages or occupation charges after the filing

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of the suit. Even otherwise, after the filing of the suit, if any amount has to be paid, it should be deposited into court or paid before the court and order sheet does not disclose any such payment before the court by the defendants to the plaintiffs. Therefore, it is clear that after the filing of the suit, no amount has been paid by the defendants to the plaintiff. Therefore, I am of the view that, although the relief sought for in IA No. 2 cannot be granted for the reasons noted Supra, the relief should be moulded by directing the defendants to deposit the admitted rate of rent of Rs. 3 lakhs per month from the date of suit till disposal of present suit and such deposited amount shall be adjusted towards the mesne profits / damages that may be ultimately awarded in the suit. Accordingly **answering the point for consideration**, I proceed to pass the following :-

ORDER

IA No. 2 under Section 151 of CPC, is disposed off by moulding the relief by directing defendants to deposit the admitted rate of rent of Rs. 3 lakhs per

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month from date of suit till date of disposal of the suit.

Any amount so deposited by defendants shall be adjusted towards damages / mesne profits which may be ultimately awarded in the suit.

The Defendants are directed to deposit the above amount from date of suit till upto date within period of 2 weeks from today and to continue to deposit the above amount during the pendency of the suit.

Ordered accordingly.

For inspection of documents and statement of admission and denial of documents of both sides and also for defendants to comply with the order for deposit of amount call on 27-4-2024.

[Dictated using Dragon Professional Speech Recognition Software Version 15.3, transcript revised, corrected, signed and then pronounced by me in open court on this the **05th day of April, 2024**]

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(Sri. S. Sudindranath)
LXXXIII ADDL.CITY CIVIL AND SESSIONS JUDGE,
COMMERCIAL COURT; BANGALORE.