

Ej. Suit No. 178 of 2013

Order No. 21

21.07.2015

Today is fixed for passing order in respect of the petition u/s 7(2) of W.B.P.T. Act, 1997 preferred by the defendants.

Both parties filed hazira through their respective Ld. Advocates.

In addition the defendant also submitted several Rent Control and Court deposit challans pertaining to their deposit of rent with the Rent Controller and in the Court.

Let the said documents be kept with the record in the covered file furnished by the defendants.

Record is taken up for passing order.

In the subject application u/s 7(2) of W.B.P.T. Act, 1997 dated 13.05.2013, the defendants claimed to have received summons in this suit on 20.04.2013. It has been asserted by them that till the month of October, 1984, they paid the rent directly to the plaintiff against due issuance of rent receipts in the name of their father. Subsequently the rent for the month of November, 1984 was tendered by their mother to the plaintiff personally as well as through money order. In both the occasions the rent so tendered was allegedly refused to be accepted. As such, the defendants and their mother, being left with no other option, started depositing the rent with the office of the Rent Controller to the credit of the plaintiff. After the demise of their mother, the defendants continued such deposits in accordance with law till the month of April, 2013.

On the basis of aforesaid contentions, by way of this application, the defendants denied the plaintiff allegation of them being defaulters in payment of rent since November, 1984. They have also prayed for adjudication of the dispute regarding arrear of rent and permission to pay the outstanding rent, if any, found due and payable by them in easy instalments.

At the time of hearing Ld. Advocate for the defendants reiterated the contents of the subject application and drew attention of this court to the various documents furnished on behalf of the defendants in course of hearing the instant application.

Copy of the petition was served on the other side.

No written objection submitted on behalf of the plaintiff.

However, on call, Ld. Advocate for the plaintiff raised vehement verbal objection against the contents of the subject application and stuck to the plaintiff allegation regarding default in payment of rent since November, 1984.

Considered the submissions made by both sides and perused materials on record including the documents produce before this Court by the defendants.

It remains uncontroverted that the defendants are tenants in respect of the suit premises under the plaintiff at a monthly rent of Rs. 35/- payable as per the English Calendar month. The only dispute to be adjudged at this stage is whether the defendants or their predecessor-in-interest have failed to pay the rent since November, 1984 or not.

It is observed, that the defendants have submitted several Rent Control challans and information slip issued by the Office of the Rent Controller, Kolkata relating to their deposit of rent for the period of December, 1995 to October, 2011. But, for reasons best known to them, the defendants did not submit any document to show that prior to the commencement of said deposits, they or their predecessor-in-interest had duly tendered the rent for the month of November, 1984 to the plaintiff.

No money order document was forthcoming to substantiate the said contention of tender of rent. The defendants also did not adduce any evidence nor produced the certified copy of the affidavit sworn by them before the Rent Controller prior to the deposits.

Moreover, in the 7(2) application the defendants averred to be depositing the rent since November, 1984 while the challans furnished before this Court relate to the period of December, 1995 and after that.

In view of above, due to want of valid tender documents, I am constrained to hold the said Rent Control deposits documents as invalid and treat the defendants as defaulters in payment of rent since November, 1984 till August, 2013.

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It is further observed, that vide order dated 13.05.2013, Ld. Chief Judge, Presidency Small Cause Court, Calcutta had allowed the application of the defendant no.-2 u/s 7(1) of W.B.P.T. Act, 1997 and permitted him to deposit the current month by month rent in Court.

From the Court deposit challans, it transpires that the said order has been duly complied with by the defendants and the current rents from September, 2013 to May, 2015 have been duly deposited.

On perusal of the dates, amounts and other particulars of the said documents, I am inclined to observe that the deposits made in Court from September, 2013 to May, 2015 are all valid.

Summing up the aforesaid discussion, it is hereby found that the defendants validly deposited the rent from September, 2013 to May, 2015 in Court, but they failed to furnish any satisfactory document to prove the valid payment or deposit of rent for the period prior to that.

Hence, it is,

O R D E R E D,

that the petition u/s 7(2) of W.B.P.T. Act, 1997 stands disposed off on contest without any order as to cost.

The defendants are found to be defaulters in payment of rent for a period of 346 (three hundred forty six) months from November, 1984 to August, 2013.

At the undisputed rate of rent of Rs. 35/- per month, outstanding rent for 346 months stands at Rs. 12,110/-.

Statutory interest @ 10% arrives at Rs. 1211/-.

Thus till the month of May, 2015, a sum of Rs. 13,321/- (Rs. 12,110/- + Rs. 1,211/-) is found due and payable by the defendants towards arrear rent with interest.

The defendants are directed to deposit the said amount of Rs. 13,321/- in Court within a period of 30 days from the date of this order i.e. by 20.08.2015.

In addition, they are further instructed to go on depositing the current month by month rent in Court @ Rs. 35/- per month from June, 2015 onwards within the time prescribed u/s 7(1)(c) of W.B.P.T. Act, 1997 i.e. by the 15th day of each succeeding English Calender month.

Fix 09.09.2015 for S/R in respect of the defendant no.-3 and framing of issues.

Dictated and corrected by me:

Judge

Judge, 3rd Bench.