

GAHC010075192023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP(IO)/103/2023

RAJAT KARMAKAR
S/O LATE RABINDRA NATH KARMAKAR, R/O SITARAM, PUKHURPAR
ROAD, P.O. AND P.S.-DIBRUGARH, DIST-DIBRUGARH, ASSAM

VERSUS

VIJAY KUMAR VERMA
S/O LATE JANARDAN PRASAD VERMA, R/O B.C. DAS ROAD, SANTIPARA,
DIBRUGARH TOWN, P.O., P.S. AND DIST-DIBRUGARH, ASSAM

Advocate for the Petitioner : MR SISHIR DUTTA

Advocate for the Respondent :

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
ORDER

10. 04. 2023

Heard Mr. S Dutta, learned Senior counsel assisted by Ms. S Mochahari, learned counsel for the petitioner.

The present application is filed assailing an order dated 16.11.2022 passed in petition No. 668/2020 arising out of TS No. 232/2015. The respondent herein filed a suit for eviction of the petitioner from the tenanted premises on the ground of default

and bonafide requirement. The said suit was registered as TS No. 232/2015.

Alleging that the tenant has stealthily deposited the rent in the account of the plaintiff landlord, a prayer for a direction to the defendant to take back the said money by declaring that the deposit being illegal, was made in the petition No. 668/2020. Such petition was allowed by the impugned order declaring that such deposit is illegal and the defendant is to take back the money.

Issue notice, returnable after six weeks.

Petitioner to take steps for service of notice upon the respondent by way of registered post with A/D and by usual process within a period of one week from today.

This court is of the prima-facie view that whether deposit of rent is legal or illegal or whether such deposit is made in term of the provision of the Assam Urban Areas Rent Control Act, 1972, can be declared and determined in the suit after leading evidence and not in an application as has been done in the present case.

Having such prima-facie satisfaction, it is provided that till return of notice, the impugned order dated 16.11.2022 shall remain suspended. However, it is made clear that this court has not stayed the proceeding of the suit.

JUDGE

Comparing Assistant