

Ashok Kumar Vs. Om Prakash

Ashok Kumar Vs. Om Prakash

SooperKanoon Citation : sooperkanoon.com/768737

Court : Rajasthan

Decided On : May-26-2000

Reported in : 2000(3)WLC366; 2007(3)WLN465

Judge : Arun Madan, J.

Appeal No. : S.B. Civil Revision Petition No. 532 of 2000

Appellant : Ashok Kumar

Respondent : Om Prakash

Disposition : Petition allowed

Judgement :

Arun Madan, J.

1. Heard learned Counsel for the parties at length. The landlord non-petitioner had filed a suit for eviction on the ground of default in payment of rent against the defendant-petitioner herein. The petitioner-defendant has come up by way of this revision petition against the order dated 22.3.2000 passed by learned Addl. District Judge No. 8, Jaipur City, Jaipur whereby the said Appellate Court confirmed the findings of the trial Court by its order dated 4.9.1999, striking out the petitioner's defence against his eviction. There was provisional determination of the rent by the trial Court as per the requirements of the Rajasthan Premises (Control of Rent

& Eviction) Act, 1950. The rent was determined as Rs. 225/- per month. The defendant had stated that though he had deposited the rent through tender No. 964 with the trial Court as On 25.5.1995 but on enquiry it was found that no such rent was found deposited under such number and the non-petitioner could not locate the particulars. An application for condonation of delay in deposit of said amount for the month of 11.4.1995 to 10.5.1995 was filed by the petitioner. Immediately on coming to know that the details of such deposited rent was not available to his landlord, the rent for the aforesaid period was deposited on 31.5.1999 in the bank account of the respondent explaining cause for the delay. The said application was rejected by the trial Court and the Appellate Court confirmed the findings of the trial Court. During the course of hearing, the learned Counsel for the petitioner states that as per the requirements of the Act he has duly complied with the order of the trial Court, making provisional determination of the rent except for the aforesaid period from April, 1995 to May, 1995.

2. The pre-requisites which are essential in law as per the requirements of Sub-section(4) of Section 13 of the Act, 1950 are:

The tenant shall deposit in Court or pay to the landlord the amount determined by the Court under Sub-section (3) within fifteen days from the date of such determination, or within such further time, not exceeding three months, as may be extended by the Court. The tenant shall also continue to deposit in Court or pay to the landlord, month by month the monthly rent subsequent to the period upto which determination has been made by the fifteenth of each succeeding month or within such further time not exceeding fifteen days, as may be extended by the Court; at the monthly rate at which the rent was determined by the Court under Sub-section(3).

3. Sub-section (6) of Section 13 of the Act, 1950 stipulates as under:

If a tenant makes deposit or payment as required Sub-section (4) no decree for eviction on the ground specified in Clause (a) of Sub-section(1) shall be passed by the Court against him:

Provided that a tenant shall not be entitled to any relief under this Sub-section, if having obtained such benefits or benefit under 13-A in respect of any such accommodation if he again makes a default in the payment of rent of the accommodation for six months.

4. In my view, both the Courts below have failed to take into consideration the bona fides of the petitioner in having deposited the rent, for the aforesaid period earlier with the trial Court which could not be verified and thereafter the deposit made by him with the bank account of the respondent. During the course of hearing, it is stated by the learned Counsel for the respondents that the rent of the aforesaid period has not been deposited in the bank account of the respondent by the petitioner. The learned Counsel for the petitioner has stated that in all bona fides the rent for the aforesaid period was deposited by him in Bank Account of the respondent and respondent is at liberty to withdraw the same and in future he shall always keep on deposit the rent in the bank account of the respondent regularly and he has further conveyed assurance to this Court that there shall be no default in payment of the rent.

5. In my view, the trial Court erred in striking of the petitioner's defence against the eviction without taking into account the bona fide intentions of the petitioner, who has been regularly paying the rent and only rent for one month i.e. April to May there was a default in payment which too cannot be construed as willful nor it is a deliberate default on his part, as so contended by learned Counsel for the respondent.

6. The learned Counsel for the respondent has placed reliance on the judgment of this Court in the matter of Radhey Shyam Soni v. Satyanwan Kedawat. WLC 1999 Vol. 2 107. The ratio of the said decision is not attracted to this case. I am of the view that the impugned-order striking of the defence of the petitioner against eviction is liable to be interfered with and the order is thus held not sustainable.

7. The trial Court is directed to decide this matter expeditiously and in any case not later than four months on receipt of certified copy of this order.

8. With the aforesaid observations, the revision petition is allowed and the order dated 4.9.1999 passed by the trial Court as well as the order dated 22.3.2000 passed by the Appellate Court are quashed and set aside. No order as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com