



IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

CIVIL REVISION No. 768 of 2024

VIKAS AND OTHERS

Versus

SMT. NIRMALA SHARMA

Appearance:

Shri Jagdish Baheti, learned counsel for the petitioners.

Shri Jitendra Bharat Mehta, learned counsel for respondent.

ORDER

(Reserved on 23.09.2024)

(Pronounced on 14.10.2024)

1. By this revision preferred under Section 23-E of M.P. Accommodation Control Act, 1961 read with Section 115 of the CPC the petitioners/non-applicants have challenged the order dated 22.08.2024 passed by the Rent Controlling Authority whereby an application under Section 13(6) of the Act, 1961 filed by the respondent/applicant had been allowed and their defence against



eviction has been struck off.

2. The respondent has filed an application under Section 23-A of the Act, 1961 against the petitioners for their eviction from the suit premises contending that they are her tenants therein at Rs.35,000/- per month, that they are in arrears of rent in the sum of Rs.6,74,000/- and that the suit premises are bona fide required by her.

3. The petitioners have contested the eviction application by filing their reply to the same submitting that they are not tenants of the respondent in the suit premises bearing house No.91-A, Anoop Nagar, Indore as contended by the respondent. They are instead tenants in house No.90-A. In respect of suit premises house No.91-A there is no relationship of landlord and tenant between them and the respondent who is not even the owner of the suit premises.

4. During course of proceedings before the Rent Controlling Authority, an application under Section 13(6) of the Act, 1961 was filed by the respondent for striking off the defence of the petitioners submitting that they have failed to deposit the arrears of rent and also the monthly rent as per Section 13(1) of the Act, 1961. The application was contested by the petitioners in which they disputed the rate of rent as well as quantum thereof and also the person to whom rent is payable. The application has been allowed by the Rent Controlling Authority by observing that there has been a default in



the sum of Rs.60,000/- by the petitioners in the matter of payment of rent.

5. I have considered the submissions of the learned counsel for the parties and have perused the record.

6. From pleadings of the petitioners themselves it is clear that they have denied relationship of landlord and tenant between the respondent and them. They have specifically stated that they are not tenants of the respondent in the suit premises and that she is not the owner thereof. Though they have contended that they are tenants of the respondent in a different house bearing No.90-A but the fact remains that they have emphatically stated that they are not tenants of respondent in the suit premises in respect of which the eviction application has been filed by her.

7. From perusal of the entire written statement filed by the petitioners it is evident that no dispute has been raised by them therein as regards either the rate of rent of the suit premises or the arrears thereof or the person to whom rent is payable. Their only plea is that the respondent is not the owner of the suit premises and is consequently not entitled to seek their eviction. The averments made in reply to the application under Section 13 (6) of the Act, 1961 cannot be regarded to be any pleading made by them. The judgment in the case of Jamunalal and Others V/s. Radheshyam 2004 Supreme



Court Cases 380 relied upon by the learned counsel for the petitioners is hence not applicable to the facts of the case.

8. As per Section 13(1) of the Act, 1961, the tenant has to within one month of service of writ of summons upon him or within such further time as the Court may on an application made to it allow in this behalf, deposit in the Court or pay to the landlord the arrears of rent and has to thereafter continue to pay the monthly rent by the 15th of each succeeding month.

9. There is no dispute as regards rate of rent having been raised by the petitioners in their written statement or as regards the quantum of arrears of rent or the person to whom the same is payable. They however seek to defend the claim of eviction of the respondent on grounds as set up in the eviction application and contend that their defence against eviction cannot be struck off since they have complied with the provisions of Section 13(1) of the Act, 1961. For that they are required to prove that they have deposited the entire arrears of rent within one month of service of writ of summons upon them or within the extended time. They also have to show that ever since the institution of the eviction proceedings they have been depositing the monthly rent by the 15th day of the succeeding month and that the delay, if any, in payment of such rent has been condoned by the Rent Controlling Authority. The authority was also required to ascertain as to whether the entire conditions of Section 13(1) of the



Act, 1961 have been complied with by the petitioners. It has however only considered the fact as regards deposit of the monthly rent from the date of institution of the eviction application.

10. In the available facts of the case, the impugned order dated 22.08.2024 passed by the Rent Controlling Authority deserves to be and is accordingly set aside. It is directed to redécide the application under Section 13(6) of the Act, 1961 filed by the respondent by ascertaining whether the entire legally recoverable arrears of rent has been deposited by the petitioners as per the provisions of Section 13(1) of the Act, 1961 and whether they have paid the monthly rent for each month by 15th day of the next succeeding month. It is made clear that no dispute as regards rate of rent or amount of rent has been raised by the petitioners in their written statement. The Rent Controlling Authority will also take into consideration the fact whether any delayed deposit in payment of rent has been condoned by it or not.

11. With the aforesaid direction, revision stands disposed off.

(PRANAY VERMA)
JUDGE