

(2017) 01 KAR CK 0331
In the Karnataka High Court
Case No : 1926 of 2016 (POS)

Rajesh Mabian

APPELLANT

Vs

Imtiqab Gafoor, & Ors.

RESPONDENT

Date of Decision : 25-01-2017

Acts Referred:

Citation : (2017) 01 KAR CK 0331

Hon'ble Judges : K.N. Phaneendra

Bench : SINGLE BENCH

Advocate : Vyasa Rao K.S., R.S. Hegde

Final Decision : Dismissed

Judgement

1. The learned counsel for the appellant submits that during the pendency of the appeal before the First Appellate Court. He has made payment of arrears of rent and is regularly paying the rent of Rs.3,000/- per month as ordered by the trial Court. He has also produced the certified copy of the order sheet maintained in R.A.14/2014 to substantiate that he has deposited an amount of Rs.68,344/-, Rs.6,000/- and Rs.3,000/- to the respondent and he is regularly paying monthly rent of Rs.3,000/-.

2. In view of the above submission and also the affidavit of the appellant dated 25.01.2007 filed before this Court, stating that he has paid the entire arrears of rent amount and that he is being regularly paying monthly rent of Rs.3,000/- as ordered by the trial court, there is no question of making any payment of deficit court fee. Hence, the office objections as regards payment of deficit court fee, is overruled.

3. Learned counsel for the appellant submits that, this appeal is filed against the concurrent findings of the Courts below, holding that there is a jural relationship of landlord and tenant and eviction order has been passed by the trial court, which is affirmed by the First Appellate Court. Therefore, there is no substantial question to be formulated for consideration and the only point is that reasonable

time may be granted to the appellant to vacate the suit schedule premises.

4. On perusal of the judgment of the First Appellate Court, it is seen that before the First Appeal Court the very same statement has been made stating that if reasonable time is granted to the appellant, he is ready to obey the order of the court and vacate the premises. On the basis of the said statement of the learned counsel for the appellant the First Appellate Court granted six months time to vacate the suit schedule premises.

5. The factual aspects between the parties are not in dispute. There is no substantial question of law arises for consideration in this appeal. In view of the submissions made by the learned counsel for the appellant that if nine months time is granted to the appellant, he is ready to quit and vacate the premises. At this stage, learned counsel for the respondents submit that despite granting six months time by the First Appellate Court, appellant has failed to vacate the premises, and hence he submits that two months time may be granted to the appellant to vacate the premises.

6. In view of the fair submissions made by the respective counsels, this court is of the considered view that it is just and necessary to grant four (04) months time to the appellant to vacate the premises, which would meet the ends of justice. Hence, the following:

ORDER

The appeal is dismissed at the admission stage, as there is no substantial question of law arises for consideration. However, the appellant is hereby directed to quit and hand over the vacant possession of the premises to the respondents within four (04) months from today. It is made clear that no further extension of time will be entertained for any reason. In the event appellant fail to vacate the premises within the stipulated time, the respondents are at liberty to execute the order of the trial Court by filing appropriate petition.

The appellant is hereby directed to file an affidavit of undertaking before the trial court, within two weeks from today, undertaking to quit and deliver vacant possession of the premises, as agreed.

Sri. R.S. Hegde, learned counsel appearing for Caveator - R7 also undertakes to file vakalath for other respondents as well. He is permitted to do so within fifteen days, so far as other respondents are concerned.