

[2009] 8 S.C.R. 889

MANISHA LALWANI

v.

D.V. PAUL

(Civil Appeal Nos.3234-3235 of 2009)

MAY 5, 2009

[TARUN CHATTERJEE AND H.L. DATTU, JJ.]

Rent Control – Conditional decree passed by High Court – Tenant directed to deposit Rs.10,000/ – in trial court within 4 months or else trial court directed to pass decree of eviction – Application for extension of time to deposit the amount – Disposed of, by High Court with direction to Executing Court to conduct inquiry as to whether maid servant of the decree holder had received a bank draft of Rs.10,000/ – on his behalf from the tenant – Held: For executing the decree, it was not necessary to hold an inquiry whether in fact the maid-servant had received the bank draft or not because in the conditional decree of the High Court, it was made clear that such amount must be deposited in trial court which was not done by tenant – Hence, no reason for the Executing Court to not proceed with execution of the decree – However, it would be open to the Executing Court to proceed with the inquiry as directed by High Court.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 3234-3235 of 2009.

From the Judgment & Order dated 6.12.2007 of the High Court of Judicature of Madhya Pradesh at Jabalpur in MCC No. 1876 of 2007 and order dated 7.1.2008 in I.A. No. 14800 of 2007

Ravindra Shrivastava, Akshat, Shrivastava, P.P. Singh, Inderjeet Yadav for the Appellants.

Rohit Arya, Nitin Gaur and S.K. Sabharwal for the

A Respondents.

The Judgment of the Court was delivered by

TARUN CHATTERJEE, J. 1. Leave granted.

B 2. These appeals are directed against an order dated 6th of December, 2007, passed by the High Court of Madhya Pradesh at Jabalpur in MCC No.1876 of 2007, by which the application filed for extension of time fixed by the High Court while passing the judgment dated 4th of May, 2006, was
C disposed of with certain directions.

3. We have heard the learned counsel for the parties and have examined the impugned order and other materials on record. While passing the conditional decree, the High Court on 4th of May, 2006 directed "that the tenant shall deposit a sum of Rs.10,000/- [Rupees ten thousand] by way of compensation in the trial court within a period of four months from the date of this judgment, for being paid to the landlord. If the tenant fails to deposit the amount within the stipulated period of four months, the trial court shall pass a decree for eviction of the tenant/respondent under Clause (M) of Sub-section (1) of Section 12 of the Act. If the tenant deposits the amount within the specified period, the plaintiff's suit shall stand dismissed."
D The respondent-tenant had failed to deposit in the trial court the amount as aforesaid within the stipulated time mentioned in the
E aforesaid order. On an application filed for extension of time to deposit the amount, as directed by the High Court on 4th
F May, 2006, the High Court directed an inquiry to be initiated whether one Smt. Durga, a maid servant of the decree holder had received a bank draft of Rs.10,000/- on behalf of the decree
G holder tendered by the respondent and that whether she was retaining the same in view of the fact that the application it was alleged that the order of the High Court dated 4th of May, 2006 was duly complied with as he had already deposited the bank draft of Rs.10,000/- with the same Smt. Durga, a maid servant
H of the decree holder. The High Court directed the Executing

Court to conduct an inquiry and examine the witnesses and receive evidence to be adduced by the parties and then to submit a report to it.

4. We have heard Mr. Ravindra Shrivastava, learned senior counsel appearing on behalf of the appellant-decree holder and Mr. Rohit Arya, learned senior counsel for the respondent and have also considered the conditional decree and the application for extension of time and other materials on record. In our view, for the purpose of executing the decree, whether money has been deposited or not, it was not necessary to hold an inquiry whether in fact Smt. Durga had received the bank draft or not because in the conditional decree of the High Court, it was made clear that such amount must be deposited in the trial court which was not done by the respondent. In this view of the matter, we are of the view that there is no reason why the Executing Court shall not proceed with execution of the decree passed on 4th of May, 2006, and accordingly, we direct the Executing Court to proceed with the execution case passed on 4th of May, 2006. However, it would be open to the Executing Court to proceed with the inquiry as directed by the High Court.

5. With these observations and or modification, these appeals are disposed of. There will be no order as to costs.

B.B.B.

Appeals disposed of.