

REPORTABLE

IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3234-3235 OF 2009

[Arising out of SLP [C] Nos.2730-2731 of 2008]

MANISHA LALWANI

... APPELLANT

VERSUS

D.V.PAUL

...RESPONDENT

J U D G M E N T

TARUN CHATTERJEE, J.

1. Leave granted.
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 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." The respondent-tenant had failed to deposit in the trial court the amount as aforesaid within the stipulated time mentioned in the aforesaid order. On an application filed for extension of time to deposit the amount, as directed by the High Court on 4th 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 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 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.

.....J.
[TARUN CHATTERJEE]

NEW DELHI:
MAY 05, 2009

.....J.
[H.L. DATTU]

