

**IN THE COURT OF THE HON'BLE I JUNIOR CIVIL JUDGE,
CITY CIVIL COURT, AT: SECUNDERABAD**

O.S. No. 523 OF 2023

Between:

Gaurang J. Mody

...PLAINTIFF

AND

Nisha Shah

...DEFENDANT

**REJOINDER TO THE WRITTEN STATEMENT FILED BY THE
DEFENDANT**

I, Gaurang J. Mody, S/o. Late Sri Jayantilal Mody, Age: 54 years; Occupation: Business, R/o. Flat No. 105, Sapphire Apartments, Chikoti Gardens, Begumpet, Hyderabad – 500 016, do hereby solemnly affirm and state on oath as follows:

1. At the outset, it is most humbly submitted that all the averments, allegations and contentions made by the Defendant in the Written Statement are denied as false and baseless and are, hence, denied in toto. Unless specifically admitted by the Plaintiff, nothing stated herein should be considered as an admission on behalf of the Plaintiff by reason of non-traverse unless the same has specifically admitted hereinafter. It is further submitted that the Defendant has failed to make out any case/ground, whatsoever, for the dismissal of the present suit either on facts or law.
2. It is most humbly submitted that Defendant herein are blatantly misrepresenting facts and suppressing relevant facts. The Defendants have supplied a narrative which is replete with

falsehoods and totally concocted for the purpose of misleading this Hon'ble Court.

Para-wise Reply:

3. The contents of Para 1 are denied in their entirety and the Defendants are put to strict proof of the same. The Plaintiff most humbly submits that the present suit has been filed on the basis of records, documents and correspondences that the Defendants herself is privy to and in view of the same, it is the Defendant who is guilty of *suppresio veri* and *suggestio falsi*. The Plaintiffs responses to the contents of Para 1 are submitted as under:
 - a. It is vehemently denied that the Defendant is unaware of the Plaintiff's purchase of the Suit Schedule Property in 2021 and the Defendant is put to strict proof of the same. It is submitted that the Original Leased Premises i.e. Shop/Mulgie admeasuring 320 Sq. Ft. on the ground floor bearing Municipal No(s) 203022/G was originally offered on sale by Mr. Jitendra Palnitkar, to the Defendant, but the Defendant refused to purchase the said property and stated that she will continue as a tenant. It was only after this, that Mr. Jitendra Palnitkar by way of Registered sale deed dated 20.02.2020, bearing document no. 389 of 2020, sold the Original Leased Premises on an "AS IS WHERE IS BASIS" to Mr. Dharmesh Ranjit Parikh, S/o Sri Ranjit Parikh.
 - b. Further, Mr Dharmesh Ranjit Parikh was in use and occupation of the Second Leased Premises i.e., Shop/Mulgie admeasuring 320 Sq. Ft. on the first floor bearing Municipal No(s) 203022/9 as a tenant, and he thereafter purchased the

Second Leased Premises from Mr. Jitendra Palnitkar by way of Registered Sale Deed bearing no. 391 of 2020 dated 20.02.2020. It is submitted that the Plaintiff herein purchased the aforesaid Suit Schedule Property from Mr. Dharmesh Ranjit Parikh by way of Sale Deed bearing no. 509 of 2021 dated 18.02.2021 prior to which Mr Dharmesh Ranjit Parikh informed the Defendant of his desire to sell the Suit Schedule Property, and offered it to the Defendant but the same was refused by the Defendant claiming inability to purchase the Suit Schedule Property. It is thus, submitted that the Defendant herein had knowledge of the Suit Schedule Property being sold by both Mr. Jitendar Palnitkar and Mr Dharmesh Ranjit Parikh, and the claim that there was a 'lack of knowledge' is completely flawed, false and baseless.

- c. It is pertinent to note that while the Defendant has denied the allegation that she has illegally sub-let the Suit Schedule Property to one Mr. Chirag Shah, the falsity and untruth of the same is exposed by the Defendant's admission at Para No. 1 that "beside this Defendant one Sri Chirag Jitendar Shah is also carrying on business in the same Premises". A bare perusal of the Sale Deed bearing No. 389 of 2020 (of Dharmesh Parikh) reflects that the sale of the Suit Schedule Property was made on an 'AS IS WHERE IS BASIS' with the sole tenant Nisha Shah. The Defendant's name alone is mentioned thus establishing that the sole tenant of Jitendar Shah was the Defendant. The Defendant's admission at Paragraph 1 that Mr. Chirag Shah is also carrying on his business from the Premises establishes that the Defendant has illegal sub-let the Suit Schedule Property to Mr. Chirag Shah.

- d. The Defendant's claims at Para 1 that a consolidated rent of Rs. 1965 per month was being paid by the Defendant or that the Defendant was in occupation of the mulgie in the ground floor alone are denied as completely false baseless and unsubstantiated. It is reiterated that both ground floor and first floor were taken on lease by the Defendant and the Defendant is now resorting to perjury to further evade her liability.
- e. The Defendant's allegation at Para 1 that the legal notice dated 27.12.2022 is not valid as per the Transfer of Property Act is denied as false and erroneous. Section 106 of the Transfer of Property Act, states that-
"106. Duration of certain leases in absence of written contract or local usage.—(1) In the absence of a contract or local law or usage to the contrary, a lease of immovable property for agricultural or manufacturing purposes shall be deemed to be a lease from year to year, terminable, on the part of either lessor or lessee, by six months" notice; and a lease of immovable property for any other purpose shall be deemed to be a lease from month to month, terminable, on the part of either lessor or lessee, by fifteen days notice".

In view of the above, it is submitted, the Notice issue dated 27/12/2022 is a valid notice, and the Defendant has miserably failed to substantiate or establish in any manner their allegation that the notice is not valid as per the provision. The Defendant is evidently resorting to raising untenable technical objections to make up for the lack of a legitimate defence.

4. In Response to Para 2, it is submitted that the averments therein claim that Mr. Chirag J. Shah has been tendering rents in his individual capacity to Mr. Jintendra Palnitkar which have been acknowledged, this is completely false and the defendant is put to strict proof to furnish the details of these transactions and so-called acknowledgments.
5. In Response to Para 3 it is submitted that the averments therein are completely false and baseless and that the Defendant was always aware of the Suit Schedule Property being sold by Mr. Jitendra Palnitkar to Mr Dharmesh Ranjit Parikh and then further being sold by Mr Dharmesh Ranjit Parikh to the Plaintiff herein. The Defendants submission at paragraph 3 makes evident the fraud being played by her on this Hon'ble Court. The Defendant has, despite being aware of the sale to Mr. Parikh and thereafter the Plaintiff, evidently failed to make any payment of rents since prior to 2020. Taking advantage of her own default and failure to pay rents, the Defendant is now denying her awareness of the sale merely to further evade her liability.
6. In Response to Para 4, it is submitted that the averments therein are completely false and baseless. The response to the same is submitted as under:
 - a. It is submitted that the Suit Schedule Property is a prime property located in Ranigunj, Secunderabad which is situated in the heart of the city and is in the middle of a bustling market. The Suit Schedule Property is centrally located and is ideal and beneficial for running business in the Secunderabad area.

Further, the Defendant is evidently carrying on her business at the Premises and raising good revenue from the same.

- b. Considering the aforesaid factors, it is unfathomable that the rent of such a property, in the 2020s, would still be a meagre amount of Rs. 1965/-. The said claim of the Defendant is ludicrous on the face of it, transcends the boundaries of reason and would not be believed by any prudent person living in Hyderabad/Secunderabad.
- c. To establish the veracity of the Plaintiff's Claim, the Plaintiff is herewith enclosing a lease deed dated 15.12.2022 bearing No. 2713 of 2022 which was executed for the Shop/Mulgi bearing no. 2-3-22/B, which is in the same area as the Suit Schedule Property admeasuring 423 Sq. Feet on the ground floor, along with the undivided share of land, admeasuring 21.5 Sq. Yards, situated at 2-3-22, Secunderabad. A perusal of Clause 3 (LEASE RENT) of the Lease Deed shows that the current prevalent lease rent for a property in the very same area admeasuring 423 Sq. Feet on the ground floor is an amount of Rs. 50,000 along with an enhancement of 10% every 2 years on the existing rent. Copy of lease deed dated 15.12.2022 bearing No. 2713 of 2022 is enclosed herewith as **Annexure 7**.
- d. It is further submitted that the said property being in the vicinity of the Suit Schedule Property, proves the colossal gap between what the Defendants claim that they are paying as rent compared to what the prevailing rate of rent in the area of the aforementioned Suit Schedule Property.

7. In Response to Para 5, it is submitted that with regard to the averments therein, the Defendant has failed to make out any reason/grounds for denying the contents of the suit.
8. In Response to Para 6, it is submitted that the averments therein claim the existence of a written rental agreement between the Defendant and J. Palnitkar but no such document has been filed nor has the term of the said lease been revealed. It is submitted that the Defendant is deliberately suppressing the fact that all she was privy to is an oral tenancy and further that she is in illegal occupancy of the Suit Schedule property and thus, to escape the provisions of law, is claiming the existence of a false and concocted written rental agreement. The Defendant is further put to strict proof to furnish this alleged written rental agreement along with the details of the term for which this alleged agreement was entered into.
9. In Response to Para 7, it is submitted that the averments therein are denied.
10. In Response to Para 8, it is submitted that with regard to the averments therein, the Defendant has failed to make out any reason/grounds for denying the contents and claiming abuse of process of law.
11. In Response to Para 9, it is submitted that the averments therein are denied as false and erroneous. The Defendant has failed to substantiate how and why the suit is not valued as per law. It is most humbly submitted that the suit is correctly valued and sufficient court fees have been paid by the Plaintiff.

12. The contents of Para No. 10 are completely denied as flawed, false and made up by the Defendant without perusing the contents of the Plaint properly. The Plaintiff has never claimed to have issued a notice dated 15.01.2023 but has merely stated that the time period provided to vacate the premises had lapsed on 15.01.2023.
13. The Plaintiff reserve their right to defend any other allegations alleged by the Defendant not responded herein. Further, the Plaintiff craves leave of this Hon'ble Court to put on record additional documents and submissions if the need arises.

In light of the facts stated and for the reasons given, this Hon'ble Court may be pleased to grant the prayers sought by the Plaintiff in the instant suit and pass such other orders as deemed fit in the interest of justice by this Hon'ble Court.

DEPONENT

Sworn and signed before me,
on this the ____ day of January, 2024
At Hyderabad

Advocate/Hyderabad

VERIFICATION

I, Gaurang J. Mody, S/o. Late Sri Jayantilal Mody, Age: 54 years; Occupation: Business, R/o. Flat No. 105, Sapphire Apartments, Chikoti Gardens, Begumpet, Hyderabad – 500 016, the Plaintiff herein do hereby state and declare that the contents mentioned in the above paragraphs as true and correct to the best of my knowledge, belief and information and on the basis of legal advice.

Hence verified by me on this the ____ day of January, 2024.

Place: Hyderabad

Date:

DEPONENT