

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

COCP no.2767 of 2015(O&M)

Date of Decision : 09.12.2015

Arun Kumar Garg

....Petitioner

Versus

Sh.Baldev Raj

...Respondent

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

1)Whether reporters of local newspapers may be allowed to see the judgment?

2) To be referred to the Reporters or not?

3) Whether the judgment should be reported in the Digest?

Present : Mr.C.B.Goel, Advocate for the petitioner

Mr. Jatinder Sharma, Advocate for the respondent

MAHESH GROVER, J.

The petitioner has filed the instant contempt petition alleging violation of the orders passed in CR no. 3755 of 2014 which was disposed of in the following terms:-

“i) the respondent shall vacate the demised premises on or before 30.06.2018;

ii) the respondent shall pay the entire arrears of rent, if any due within a period of one month from today and shall keep on paying the rent of ensuing months to the petitioners on or before 7th

of each calendar month;

iii) the respondent shall furnish an undertaking by way of an affidavit within a period of one month from today regarding vacation of the demised premises on 30.06.2018 and also payment of arrears of rent, if any due, and the rent of ensuing months on or before 7th of each calendar month;

It is made clear that in case the respondent would violate any of the terms and conditions as set down by this Court here-in-above, the landlords-petitioners would be entitled to seek eviction of the respondent with the help of police and the concerned officer of the respondent-bank would also make himself liable for action under the Contempt of Courts Act, 1971.”

The petitioner stated that neither the rent has been paid to him nor has the undertaking been furnished before the learned Rent Controller.

The respondent is present in Court and is represented by his counsel.

No reply, however, has been filed but a copy of the undertaking dated 24.12.2014 has been shown to the Court. The relevant of the same is extracted herebelow:-

“That this Honable Court vide its order dated 04.12.2014 in CR no. 3755 of 2013 (O&M) directed the deponent to furnish an undertaking by way of affidavit within a period of one month from the date of order dated 04.12.2014.

That the deponent shall vacate the demise premises on or before 30.06.2018 and also the deponent have already paid the rent to the landlord till date and there are no arrears of rents is due and the deponent shall pay the rent on every each ensuing month on or before 7th of each calendar month.”

The aforesaid extract would indicate a categoric assertion on the part of Sh. Baldev Raj, Branch Manager, Oriental Bank of Commerce, Branch Office Narwana that there are no arrears of rent due as they have already been paid and that the deponent shall continue paying rent on every/each ensuing month on or before 7th of each calendar month.

The facts which have been brought to the notice of this Court are that the property is owned by several co-owners. Half of the rent amounting to Rs.9137/- goes in the account of co-owner other than the petitioner which concededly has been paid by the respondent.

It would be pertinent to notice that co-owner who is receiving the rent had not filed the rent petition and it is only one Padam Parkash the predecessor in interest of the petitioner who had filed the rent petition seeking the eviction of the respondent from the premises, on account of personal necessity. He died leaving behind 5 legal representatives namely Sita Devi (wife), Arun Kumar Garg (son), Arvinder Kumar (son), Sushma and Sunita (daughters). The other co-owner is brother of Padam Prakash namely Raj Kumar who did not join

the proceedings.

The Rent Controller dismissed the petition, as did also the Appellate Authority, leading to the filing of revision petition which was disposed of in the afore-extracted terms.

The petitioner has categorically asserted that no rent or arrears have been paid to him pursuant to the orders passed in the revision petition. The respondent who is present in Court does not deny this fact but takes a plea that since there were multiple legal heirs left behind by Padam Prakash it was not possible for him to ascertain the rightful claimant. This is the solitary defence he has taken which flies on the face of it as he has filed the undertaking with a clear assertion about payment of arrears of rent. He has also committed a contempt in the face of the Court by reiterating that he has paid the entire rent which has been deposited in the bank account. When probed a little further it transpires that only half of the rent was paid to Raj Kumar and no rent has been paid to the present petitioner at all. The arrears of rent were required to be paid to the petitioner who had initiated the proceedings. The other co-owner was not before the Court and hence not in the picture at all.

The Court finds the conduct of the respondent to be highly contumacious as he has furnished a false affidavit and undertaking before this Court asserting payment of arrears whereas no rent or arrears of rent had been paid to the present petitioner and he has also asserted this fact of payment before

this Court while appearing. The respondent is, therefore, held guilty of having committed contempt of Court.

Before the Court proceeds with the issue of sentence it also notices that the Court of Revision made it clear that in the eventuality of the respondent violating any of the terms and conditions as set down by this Court in its order reproduced as above the petitioner would be entitled to seek eviction of the respondent with the help of the police and and the concerned officer of the respondent-bank would also make himself liable for action under the Contempt of Courts Act, 1971. Therefore, it is not that respondent was not put on notice regarding the consequences of violation of the orders of the Court.

He has thus not only furnished false affidavit but has violated the orders with impunity showing scant regard for the proceedings of the Court which cannot be pardoned considering the fact that he is a public servant representing a Bank which in turn is expected to adhere to law lest its own image is tarnished in public leading to loss of face.

He is thus issued a show cause notice as to how much sentence should be imposed upon him.

He has no explanation to offer except to state that it was not deliberate and tender apologies for the same.

On due consideration of the matter I am of the opinion that since the respondent has not only rendered himself liable for contempt under the Contempt

of Courts Act but is liable for eviction from the demised premises in terms of the order of this Court in revision proceedings.

The Executing Court is thus directed to carry out the eviction of the respondent forthwith by ordering police help. The respondent is given time till two months from today to vacate the premises failing which the Executing Court will carry out the eviction with the help of police without any further notice to the respondent. In case the respondent wilfully vacates the premises and hands over the possession to the petitioner, the Executing Court shall record a finding to that effect and apprise this Court.

Respondent-Baldev Raj having been held guilty of Contempt of Courts is burdened with fine of Rs. 25,000/- which shall be deposited before the Executing Court within a period of one month from today and shall be compensatory to the petitioner.

Let arrears of rent till date be deposited before the Rent Controller within a period of two weeks from today.

In case of default, Executing Court is at liberty to proceed against the contemner in accordance with the directions now given in the order.

Disposed of.

December 09, 2015
rekha

(MAHESH GROVER)
JUDGE