

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5725 of 2015
Date of decision: 03.09.2015

Om Parkash

... Petitioner

Versus

Ved Parkash

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Rakesh Gupta, Advocate for the petitioner.

1. Whether reporters of local papers 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?

ARUN PALLI J. (Oral)

Vide order being assailed, dated 24.08.2015, rendered by Additional Civil Judge (Sr. Divn.), Pehowa, the petitioner/judgment debtor has been ordered to be evicted from the demised premises and warrants of possession have since been issued. The conclusion arrived at by the executing court reads as thus:

“File perused. For the facility of reference, the stay order dated 5.5.2009 of Hon’ble High Court is hereby reproduced as under:

“Interim stay on condition that the revision petitioner pays all the arrears of rent, if any, till date and continuous to pay the same without any default within the time prescribed namely within first five days of ever succeeding calendar month. If there is any default in the payment, the stay granted

shall stand vacated automatically without any further reference to this Court.”

Thereafter, the decree holder had filed Civil Misc. No.2726-CII of 2012 before the Hon’ble High Court and the said CM of DH has been decided by the Hon’ble High Court vide order dated 2.12.2013. The order dated 2.12.2013 is hereby reproduced as under:

“In view of the aforesaid agreed stand, it is held that the prevalent market rate of mesne profits payable would be at the rate of Rs.1,300/- per month with effect from the date of passing the order by the Appellate Authority.

CM stands allowed in the above terms.”

The JD deposited the rent @ Rs. 196.20/- of the demised premises w.e.f. 5.5.2014 to 5.5.2015 vide E-Challan on 6.5.2014 and w.e.f. 5.5.2015 to 4.5.2016 vide E-Challan on 2.5.2015. The JD deposited the rent/mesne profit @ Rs.1,300/- per month of the demised premises w.e.f. 7.2.2009 to 6.4.2014 vide E-challan dated 21.3.2014 that too deposited in wrong Govt. Treasury Head, due to which, the said amount of Rs.80,600/- is yet to be released to DH. After passing of the supra order dated 2.12.2013, JD is/was under obligation to pay the rent/mesne profit @ Rs.1,300/- per month of the demised premises w.e.f. the date of passing the order by Appellate Authority i.e. 7.2.2009. The JD has not paid the rent/mesne profit of the demised premises @ Rs.1,300/- per month since May, 2014 to till date. Hence, JD has committed default in payment of the rent of the demised premises in accordance with the supra orders of the Hon'ble High Court. Subsequent, readiness and willingness of JD to make payment of

rent/mesne profit of the demised premises @ Rs.1,300/- per month for the defaulting period would have no help to the JD. Accordingly, the stay granted by the Hon'ble High Court vide order dated 5.5.2009 shall stand vacated automatically and therefore, JD is liable to be evicted from the demised premises by way of issuance of warrant of possession of the demised premises in favour of DH.”

Concededly, the petitioner/judgment debtor has not paid the rent/mesne profits of the demised premises @ ₹ 1300/- per month since May, 2014 till date. The stay order granted by this court was conditional in nature, as in the event of default, it was observed that the stay order shall stand vacated automatically without any further reference to this court.

Learned counsel for the petitioner could not point out as to how the conclusion arrived at by the executing court was contrary to the position on record or suffered from any material illegality.

That being so, no interference is warranted in exercise of revisional jurisdiction, under Article 227 of the Constitution of India. Petition being devoid of merit is accordingly dismissed.

September 3, 2015
Rajan

(Arun Palli)
Judge