

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

**CROCP No. 25 of 2014 (O&M)
DATE OF DECISION :- September 10, 2015**

Dr. Veena Gupta

...Petitioner

Versus

Ashwani Sethi and others

...Respondents

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MR. JUSTICE DARSHAN SINGH

Present:- Mr. Sandeep Kumar Verma, Advocate for the petitioner.

Mr. J.S. Toor, A.P.P., U.T.

M.JEYAPPAUL, J.

CROCP No. 25 of 2014

1. The petitioner Dr. Veena Gupta has laid the present Contempt Petition as against the respondents herein on the ground that the 1st respondent has chosen to lay an execution petition, suppressing the fact that in the appeal preferred by the petitioner as against the order of eviction passed in favour of the 1st respondent, an order of stay of eviction of the petitioner from the demised premises was granted by the Appellate Court as on 3.1.2011.

2. Heard the submissions made by learned counsel appearing for the petitioner Dr. Veena Gupta.

3. The statements of the parties before the Execution Court were produced and it was submitted by the counsel for the petitioner that the matter was compromised between the petitioner and the 1st respondent before the Execution Court. Therefore, nothing survives in the Contempt Petition, it was submitted.

4. We went through the entire records. We found that though an order of stay was granted by the Appellate Court initially on 3.1.2011, the Appellate Court having determined the mesne profits of ₹30,000/- per month passed the following order on 16.4.2012 :-

“The tenant shall deposit the arrears of mesne profits w.e.f. 29.10.2010 till date within a period of 30 days and further tenant shall continue to deposit the future monthly mesne profit on 10th day of each calendar month failing which stay regarding operation of impugned order of eviction shall stand automatically vacated.”

5. The above order passed by the Appellate Authority would go to establish that the order of stay originally granted on 3.1.2011 was modified by the Appellate Court after the mesne profits were fixed to the effect that the petitioner being tenant shall pay future monthly mesne profits on 10th of every month failing which stay would automatically stand vacated.

6. Learned counsel appearing for the petitioner would

submit that the petitioner chose to deposit in his name the mesne profits.

7. It is found that the modified order passed on 16.4.2012 and the further modified order passed by this Court on 31.5.2012 to pay mesne profits at the rate of ₹10,000/- was not complied with by the petitioner. Under such circumstances, the stay originally granted on 3.1.2011 and subsequently modified by the Appellate Authority on 16.4.2012 and further modified by this Court on 31.5.2012 was not in operation as it automatically stood vacated. Therefore, on merits also, the petitioner does not have a case to prosecute contempt as against the 1st respondent or the other respondents in this case.

8. Accordingly, the Contempt Petition is dismissed.

C.M. No. 34764 of 2014 and
C.M. No. 31810 of 2014

In view of the fact that the main case itself has been disposed of today, these applications have become infructuous and they stand closed as such.

(M. JEYAPPAUL)
JUDGE

(DARSHAN SINGH)
JUDGE

September 10, 2015

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