

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

CACP No. 19 of 2016 (O&M)

Date of decision: 7.10.2016

Satish Kumar

.. Appellant

vs

Som Parkash Rishi and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
 Hon'ble Mrs. Justice Sneh Prashar**

Present: Mr. D. S. Patwalia, Senior Advocate with
 Mr. Gaurav Rana, Advocate, for the appellant.

 Mr. Arun Jain, Senior Advocate with
 Mr. Amit Jain, Advocate, for respondent no. 1.

Rajesh Bindal, J.

After arguing the case for some time, learned counsel for the appellant submitted that the appellant is ready and willing to hand over vacant physical possession of the part of the premises in his possession and for which he has even filed a civil suit. Affidavit to that effect dated 7.10.2016 has been filed in Court. The same is taken on record. It has been stated in the affidavit that complete possession of first floor of Godown No. 154, now SCF No. 154, Grain Market, Sector 26, Chandigarh, has been handed over to respondent no. 1/landlord.

This fact is not disputed by learned counsel for respondent no. 1.

The learned Single Judge while holding the appellant guilty of committing contempt of the process of the Court, convicted the appellant to

undergo simple imprisonment for three months and also imposed fine of ₹ 2,000/-. Further direction was given for handing over vacant physical possession of the two rooms with common bath room and toilet, as noticed above, to respondent no. 1 within fifteen days. On failure, respondent no. 1 was entitled to take police help.

In the affidavit filed today, in addition to the fact that the vacant physical possession of the premises has been handed over to respondent no. 1, unconditional apology is also sought to be tendered.

It was further submitted by learned counsel for the appellant that civil suit filed by the appellant titled Satish Kumar vs Som Parkash Rishi and others pending in the Court of Mr. Gaurav Dutt, Civil Judge (Senior Division), Chandigarh, for 14.10.2016, be treated as withdrawn without any further act on the part of the appellant.

Learned counsel for respondent no. 1 submitted that as the possession of the entire premises has been handed over by the appellant to respondent no.1, the claim made in the execution titled as Som Parkash vs Satish Kumar and others pending in the Court of Additional Civil Judge (Senior Division), Chandigarh, filed by respondent no. 1, pending for 15.10.2016, stands satisfied. The same be disposed of without any further act on his part. However, liberty be given to respondent no. 1 to claim damages from the appellant in accordance with law.

Though normally apology in a contempt petition is accepted, if tendered at the very outset. In the case in hand, the appellant had contested the contempt petition. Apology has been tendered only in the appeal, after he had been convicted. Still taking a lenient view as the appellant has handed over vacant physical possession of the entire property in dispute in

his possession to respondent no.1, we take a lenient view and while accepting the apology, set aside the conviction and the fine imposed. However, still for indulging in frivolous litigation, the appellant is directed to pay cost of ₹ 1 lac to respondent no.1. The amount shall be paid by way of bank draft within two weeks from today.

Copies of the order be sent to Courts of Mr. Gaurav Dutt, Civil Judge (Senior Division), Chandigarh, and Additional Civil Judge (Senior Division), Chandigarh, which shall be placed on the record of the cases titled as Som Parkash vs Satish Kumar and others and Satish Kumar vs Som Parkash Rishi and others, which shall stand disposed of in view of the stand taken by counsel for the parties.

The appeal stands disposed of accordingly.

(Rajesh Bindal)
Judge

7.10.2016
vs

(Sneh Prashar)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No