

243 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-330-2016 (O&M)
Date of decision : 01.03.2016

Vaibhav Industries and another Petitioners

versus

Gurbax Singh Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Rajesh Gupta, Advocate
for the petitioners.

Ms. Kanwal S.Walia, Advocate
for the respondent.

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?

AJAY TEWARI, J. (Oral)

This revision has been filed against the concurrent judgments of the Courts below allowing the eviction of the petitioners and dismissing the application for additional evidence.

On 25.01.2016 the following order was passed :-

“After arguing for some time, on instructions from the petitioner No.2 the learned counsel states that the petitioner No.2 is running a commercial business over the property in dispute and he needs time to relocate his business and if adequate time is granted to him he will not press this petition on merits, and will voluntarily vacate the premises.

I find this to be a fair request.

Notice of motion.

Let the respondent be served through his counsel in the Executing Court by way of dasti process.

Adjourned to 24.02.2016.

In the meantime, the dispossession of the petitioners shall remain stayed.”

Today learned counsel for the respondent has pointed out that on 21.07.2015 the counsel for the petitioner had given the following undertaking :-

“Sh.Vipan Kanwar Advocate learned counsel for the appellant has made a statement that since the respondent does not claim arrears of rent w.e.f. 12.06.2007 to 12.11.2011, so appellant on the next date of hearing will pay arrears of rent from 13.11.2011 till 15.01.2013 and mesne profits w.e.f. 16.01.2013 till date. Now to come up on 31.08.2015 for payment and for arguments.”

As per learned counsel for the respondent the amount was not paid and, therefore, no further relief can be granted to the petitioner.

Today learned counsel for the petitioners has handed over a cheque of Rs.2.00 lacs to the learned counsel for the respondent and undertakes that the remaining mesne profits of Rs.1,98,500/- upto 29.02.2016 would be paid within 2 months. Further on instructions from his clients the learned counsel for the petitioners has stated that the petitioners will not press this petition on merits and will vacate the premises voluntarily on or before 31.03.2017 without forcing the respondent to file an execution petition and will continue to pay the rent in advance by the 7th of every month and pay the other admissible charges regularly.

Learned counsel for the respondent on the other hand

has made a counter offer stating that in case the petitioner vacates the premises voluntarily on or before 31.12.2016 the landlord will not insist on payment of mense profits but will accept rent w.e.f. March 2016 to December 2016 at the contractual rate.

Learned counsel for the petitioners has accepted this offer.

Learned counsel for the respondent has further added a caveat that the petitioners should file an undertaking to the above effect before the Executing Court within 10 days, failing which, this revision should be deemed to be dismissed.

Learned counsel for the petitioners has accepted this caveat.

In the circumstances, this petition is disposed of with the direction that the petitioners shall retain the premises till 31.12.2016, they shall pay the arrears of mesne profits upto 29.02.2016 amounting to Rs.1,98,500/- within two months, they shall pay the contractual rent w.e.f. 01.03.2016 till 31.12.2016 in advance by the 7th of every month, they shall pay all other applicable charges regularly and shall file an undertaking to this effect before the executing Court to this effect before the Executing Court within 10 days and in default of any of the above conditions this petition is deemed to be dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

March 01, 2016

Pooja sharma-I

**(AJAY TEWARI)
JUDGE**