In the High Court of Punjab and Haryana at Chandigarh

ESA NO. 19-2016 (O&M)
Date of Decision: 1.3.2016

Life Insurance Corporation of India

---Appellant

versus

Santosh Kumari & Others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. S.K.Mahajan, Advocate
for the appellant

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

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Rekha Mittal, J.

CM No. 2634- C of 2016

Prayer in this application is for condoning delay of 31 days in filing the appeal.

In view of averments in the application and arguments advanced by counsel for the appellant, the application is allowed and delay of 31 days in filing the appeal is condoned.

ESA No. 19 of 2016

The present appeal has been directed against order dated 17.09.2015 passed by the Additional District Judge, Amritsar, dismissing the appeal preferred by the Life Insurance Corporation of India (in short

"LIC") against order dated 6.01.2014 passed by the Executing Court dismissing the objections preferred by the appellant under Order XXI Rule 58 and 97 of the Code of Civil Procedure (in short "CPC").

Counsel for the appellant would contend that the appellant had taken the premises in question on lease from Sh. Gurcharan Singh and Jatinder Singh sons of Joginder Singh vide lease deed dated 24.12.2007 for a tenure of 10 years. Gurucharan Singh and Jatinder Singh, lessors of the appellant were not a party in the suit instituted by Ms. Santosh Kumari respondent No. 1 for partition which has culminated in a preliminary decree passed by the trial Court on 18.07.2006. It is further submitted that the appellant is likely to suffer irreparable loss and injury in case it is not allowed to retain the premises in question till expiry of lease on 23.12.2017**.**

I have heard counsel for the appellant, perused the records and find that the appeal sans merit and deserves dismissal.

Gurucharan Singh and Jatinder Singh allegedly purchased property vide sale deed dated 25.8.2000, during pendency of the suit filed by Ms. Santosh Kumari in the year 1997, thus, hit by the principle of lis pendence. The appellant came in picture in the year 2007 after passing of the preliminary decree.

Order XXI Rule 102 CPC provides that Rules 98 and 100 of Order XXI CPC do not apply to transferee pendente lite. A relevant extract from Rule 102, germane to the controversy, is extracted hereunder for ready reference:-

> "**Rules not applicable to transferee pendente lite.-**nothing in rules 98 and 100 shall apply to resistance or obstruction in

execution of a decree for the possession of immovable property by a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree was passed or to the dispossession of any such person.

Explanation.- In this rule, “transfer” includes a transfer by operation of law.”

A plain reading of the aforesaid extract makes it evident that neither Sh. Gurucharn Singh and Jatinder Singh can seek protection of Rules 98 and 100 CPC to resist or obstruct execution of decree for possession nor the present appellant being lessee from Guruharan Singh and another can claim any better rights to resist or obstruct the execution proceedings. In this view of the matter, I do not find any error much less illegality in the consistent findings recorded by the Courts below.

For the foregoing reasons, the appeal is dismissed. No order as to costs.

(Rekha Mittal)
Judge

1.3.2016
PARAMJIT