

\$~46

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

CM(M) 405/2016 & C.M.Nos.15587-15588/2016

PRAMOD KUMAR GUPTA

..... Petitioner

Through

Mr.Ravi Gupta, Sr.Advocate with
Mr.P.K.Rawal, Advocate.

versus

SIR SOBHA SINGH & SONS

..... Respondent

Through

None

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

%

29.04.2016

Present matter has been received by way of transfer.

Present writ petition has been filed challenging the order dated 12th February, 2016 passed by the District and Sessions Judge, whereby the petitioner has been asked to deposit the amount of Rs.50,000/- per month from the date of filing of the eviction petition i.e. 9th April, 2009.

Mr.Ravi Gupta, learned senior counsel for the petitioner states that the tenant can be asked to pay mesne profit only from the date of the eviction decree and not from the date the eviction petition was filed. In support of his submission, he relies upon the judgment of the Supreme Court in *Atma Ram Properties (P) Ltd. Vs. Federal Motors (P) Ltd., (2005) 1 SCC 705*. He states that the said judgment has been reaffirmed in two other subsequent judgments. He also states that immediate orders are required as the bailiff is going to execute warrants of attachment tomorrow.

However, this Court finds that in the impugned order dated 12th February, 2016, the District and Sessions Judge has referred to an interim order dated 29th October, 2014 passed by the Supreme Court in ***Phool Kumar & Ors. Vs. Shyambir Tyagi, SLP (C) No.29174/2014***. The said order reads as under:-

“Subject to the petitioners depositing arrears towards compensation for use and occupation of the suit shop @ Rs.10,000/- pm w.e.f. the date of filing of the eviction petition upto 31.10.2014 and @ Rs.20,000/- pm from 01.11.2014 onwards, the execution of the impugned order shall remain stayed.

Arrears shall be deposited within four weeks from today. Current compensation for use and occupation of the premises to be deposited by the 10th of every succeeding calendar month.”

Since in the present case, the Trial Court has only made an interim arrangement and if any excess amount is paid by the petitioner, the same can certainly be adjusted at the stage the final order is passed either by directing refund of the excess amount paid by the petitioner or by adjusting the excess amount against the future rentals.

It is pertinent to mention that the petitioner is holding one tenement property in Sujan Singh Park, New Delhi, even though in the affidavit annexed to the present writ petition, the petitioner has described himself as a resident of C-27, Pushpanjali Farms, Bijwasan, New Delhi also. This Court takes judicial notice of the fact that Bijwasan is an affluent area where people have large farm houses.

At this stage, Mr. Ravi Gupta prays for some further time to deposit the amount directed by the District and Sessions Judge.

However, as this Court has been approached at the eleventh hour even though the impugned order had been passed on 12th

February, 2016, the said prayer is declined.

Consequently, this Court is of the view that no interference is called for at this stage. Accordingly, the writ petition and the applications are dismissed.

MANMOHAN, J

APRIL 29, 2016
KA