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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CONT.CAS(C) 875/2016**

CHANDER PRAKASH

..... Petitioner

Through: Mr.Akshay Makhija and Mr.Vikas
Bhadauria, Advocates

Versus

VED PRAKASH

..... Respondent

Through: Mr.Anand Maheshwari, Advocate

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Date of Decision: 16th September, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. The present contempt petition has been filed alleging wilful disobedience of the order dated 10th December, 2014 passed in RC.Rev. 598/2012 whereby the respondent undertook to vacate the premises i.e. Shop No.8/5, Ground floor, in Central Market, Ashok Vihar, Delhi, on or before 30th June, 2016 and to pay the charges @ Rs.8,000/- per month.

2. Mr.Akshay Makhija, learned counsel for the petitioner, states that the respondent has not handed over the possession of the aforesaid shop till date. He also states that though the respondent vide letter dated 29th June, 2016 offered to the petitioner to hand over the

possession on 30th June, 2016 at 11.a.m., yet the said letter was posted on 30th June, 2016 at 14:23 hours.

3. Mr.Akshay Makhija points out that when the petitioner went to the shop in question on 1st July, 2016 to takeover possession, he found two ladies present at the shop who stated that the respondent-contemnor had handed over the possession of the said shop to them and respondent was no longer the tenant.

4. Per contra, Mr.Anand Maheshwari, learned counsel for the respondent states that though the respondent has today locked the premises, yet as his sister-in-law has placed another lock on the shop, the physical possession of the shop cannot be handed over. He submits that the petitioner should file execution proceedings to take over possession of the shop in question.

5. Having heard the learned counsel for the parties, this Court finds that a Co-ordinate Bench of this Court dismissed the respondent's RC.Rev. 598/2012 as not pressed and recorded the respondent's undertaking that he would vacate the suit premises on or before 30th June, 2016 and would continue to pay user charges @ Rs.8,000/- per month. The undertaking filed by the present respondent and petitioner in RC Rev. 598/2012 is reproduced hereinbelow:

- “1. That in terms of order dated 10.7.2014, the petitioner herein undertakes that he shall vacate the suit premises i.e. shop No.8/5, situated at ground floor in Central Market, Ashok Vihar, Delhi on or before 30.06.2014.*
- 2. That the petitioner executants further undertakes that he shall pay a sum of Rs.8000/- per month to the*

respondent in terms of order of the Hon'ble Court dated 5.2.2014 till 30.6.2016 of the suit premises which is in possession of the petitioner.

3. *That the petitioner/executants shall handover the vacant and peaceful possession of the suit premises to the respondent on or before 30.6.2016.*”

(emphasis supplied)

6. From the record, it is apparent that the respondent vide letter dated 29th June, 2016 offered to hand over possession to the petitioner on 30th June, 2016 at 11 a.m., but the said letter was posted by the respondent only on 30th June, 2016 at 14:23 hours, i.e., after the proposed date of handing over of possession.

7. Upon the present contempt petition being filed, this Court on 25th July, 2016 had issued notice to the respondent and had directed him to personally appear in Court on the next date of hearing. The order dated 25th July, 2016 is reproduced hereinbelow:

“ The present contempt petition has been filed alleging wilful disobedience of the order dated 10th July, 2014 passed in RC.Rev.598/21012 whereby the respondent undertook to vacate the premises i.e. Shop No.8/5 Ground Floor in Central market , Ashok Vihar, Delhi on or before 30th June, 2016 and to pay the charges @ Rs.8000/- per month ”.

Learned counsel for the petitioner states that respondent has not handed over the possession of the aforesaid premises till date. He also states that someone else is in possession of the aforesaid shop.

Issue notice to the respondent by registered post as well as dasti, returnable for 6th September, 2016.

Notice to specifically state that respondent No.1 shall be personally present in Court on the next date of hearing.”

(emphasis supplied)

8. On 06th September, 2016, though the stand of the respondent was that the respondent had handed over possession of the shop to someone else, yet learned counsel for the respondent had assured this Court that the respondent shall hand over the peaceful vacant possession of the shop in question to the petitioner on or before 14th September, 2016 and in the event of default, the respondent would have no objection if this Court holds him guilty under the Contempt of Courts Act and imprisons him. The order dated 6th September, 2016 is reproduced herein below:

“Learned counsel for the respondent assures this Court that the respondent shall hand over the peaceful vacant possession of the shop in question to the petitioner on or before 14th September, 2016 and in the event of default, the respondent would have no objection if this Court holds him guilty under the Contempt of Courts Act and imprisons him.

At the request of learned counsel for the respondent, adjourned to 16th September, 2016.

The respondent shall be personally present in Court on the next date of hearing.”

(emphasis supplied)

9. In view of the aforesaid, this Court is of the opinion that it is not open to the respondent to now contend that he has vacated the shop, but the widow of his brother is in occupation of the same as while giving the undertaking before this Court on 21st July, 2014, the petitioner had not stated that someone else was in occupation of the shop in question over whom he had no control and who was claiming some independent title to the shop.

10. Moreover, even when the petitioner had pointed out that some other lady was in possession of the shop in question, counsel for the respondent on instructions of the respondent who was personally present in Court on 6th September, 2016 had undertaken that he would hand over the peaceful vacant possession of the shop on or before 14th September, 2016 and in the event of default, the respondent would have no objection if he was held guilty and imprisoned.

11. In fact, this Court is of the opinion that the respondent is bent upon depriving the petitioner of his right to recover the possession of the shop in question as first he gained time by giving an undertaking and now when the time has elapsed, he has come up with another plea that he is not in a position to hand over the vacant and peaceful possession of the shop on the ground that his sister in law is in possession. Consequently, this Court is of the view that the stand now adopted by the respondent is in wilful violation of the undertakings given by him to this Court on 24th July, 2014 as well the orders passed by this Court on 10th July, 2014 and 6th September, 2016.

12. From the aforesaid facts, it is apparent that respondent has committed a wilful and deliberate breach of his undertakings. In fact,

the subsequent conduct of the respondent, leaves no doubt that he has tried to obstruct the course of justice and tried to bring the institution of judiciary into disrepute. In the opinion of this Court, the conduct of respondent interferes with the due course of justice and he is guilty of contempt of Court. It is necessary to do so, to uphold the majesty of law and dignity of courts as well as sanctity of Court proceedings.

13. Moreover, keeping in view the order dated 6th September, 2016 wherein the learned counsel for the respondent had stated that he would have no objection in the event of non-handing over of possession of the shop to the respondent being held guilty under the Contempt of Courts Act, 1971, this Court has no other option but to hold the respondent guilty of Contempt of Court punishable under Section 12 of the Contempt of Courts Act, 1971. The respondent is directed to be detained in civil prison for a period of thirty days. The respondent is directed to be taken into custody forthwith.

14. The petitioner is given liberty to seek possession of the shop by filing execution proceedings.

15. With the aforesaid directions, present contempt petition is disposed of.

MANMOHAN, J

SEPTEMBER 16, 2016

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