

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

CR No.6305 of 2016

Date of Decision: 21.07.2017

Shree Vishnu Processaors and anotherPetitioners

Versus

Sudarshan Sewa Trust and others ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. B.S. Khehar, Advocate
for the petitioners.

Mr. Rohit Sood, Advocate
for respondent No.1.

Mr. S.K. Monga, Advocate
for respondents No.2 to 6.

RAJ MOHAN SINGH, J.(ORAL)

This revision petition has been filed by the petitioners against the order dated 20.08.2016 passed by Civil Judge (Junior Division), Amritsar, whereby an application under Order 39 Rules 1 and 2 CPC was partly allowed in an inter-pleader suit filed by the petitioners.

At the time of notice of motion on 23.09.2016, following order was passed:-

“Learned counsel for the petitioners contends that in an interpleader suit filed by the petitioners, they highlighted that there is apparent conflict of interest with regard to title of the suit land between two sets of defendants for which four independent ejectment petitions are pending before different Courts. In the

application for ad interim injunction, petitioners prayed for stay of eviction proceedings till conclusion of interpleader suit. The said application was allowed by the trial Court, on the basis of statement made by learned counsel for the defendant No.1, but ultimate relief was not granted, rather interpleader suit was adjourned sine die. Learned counsel also points out that in one of the ejectment petition titled as Sudershan Sewa Trust vs. M/s Vishnu Processors & ors., this Court has already stayed the proceedings.

Learned counsel further contends that adjourning the case sine die was beyond the prayer made by the petitioners in the application for ad interim injunction.

Notice of motion for 06.10.2016. Process dasti as well. Till the next date of hearing, proceedings before the Rent Controller shall remain stayed.”

On the application filed by respondent No.1, this Court passed the following order on 13.07.2017:-

“CM-9502-CII-2017

Allowed as prayed for.

Accompanying document (Annexure R-1) is taken on record, subject to all just exceptions.

CM-9503-CII-2017

This is an application for modification/clarification of the order dated 23.09.2016 passed by this Court. Learned counsel for the applicant/respondent No.1 submitted that the Rent

Controller had evicted the petitioners vide order dated 20.08.2014 against which an appeal was filed before the Appellate Authority. The Appellate Authority vide order dated 27.07.2015 has decided the application under Order 41 Rule 5 read with Section 151 CPC by passing the following order

“13. After considering the rent notes which the learned counsel for the landlord has placed on record, in my opinion, the interest of justice would be served if for the purposes of assessing the mesne profits, the rate of per Square Feet area is taken to be approximately Rs.4.50 paise per month. So applying the said rate to the area of demised premises, it comes to Rs.2,13,145/- per month. Accordingly, the mesne profits at the said rate are assessed from the date of order of eviction.

14. Since this fact has come on record that civil litigation of landlord/trust is pending with one Usha Bhatia and others as discussed above and in that suit, the Court of Sh. P.S. Rai, learned Civil Judge (Senior Division), Amritsar has already ordered the present appellants to deposit the rent in an account, which was to be opened by the trust and further that deposit of rent would not be withdrawn till disposal of the case. So taking into account that aspect also, the appellants are directed to pay the arrears of rent, if any as well as mesne profits within the period of one

month from the date of this order in the account, which is to be opened by the respondent trust/landlord. They are further directed to make the payment of future mesne profits by 10th of every month. If they comply with all these conditions, only then the operation of impugned order would remain stayed. Further the deposit of rent as well as mesne profits would not be withdrawn by the petitioner trust till the disposal of the Civil Suit pending in the Court of Sh. P.S. Rai, learned Civil Judge (Senior Division), Amritsar. With these observations, the applications in hand stand disposed of.”

Against the aforesaid order a Civil Revision No.741 of 2016 was filed and the same was dismissed by this Court by observing that the conditional order has not been complied with. Approximately an amount of Rs.90 lacs was payable and the same was to be paid in terms of conditions of the order of the Appellate Authority during pendency of the appeal. The Court further observed that if the benefit of order dated 03.02.2016 was to be given, then an amount of Rs.70 lacs was to be paid. In view of failure on the part of the petitioners, the revision petition was dismissed.

Learned counsel further submitted that statement of respondent No.1 dated 20.08.2016 made before the Rent Controller was in respect of properties C-2 and C-3 which were depicted in para No.13(ii) and (iii) qua which he made a statement that he has no

objection that if the applications referred in Para No.13(ii) and (iii) are stayed till disposal of the suit. According to learned counsel, there was no such statement qua the property i.e C-1 against which the Rent Controller had already passed the eviction order.

Having heard, learned counsel for the parties, I find from the order dated 23.09.2016 that the proceedings before the Rent Controller were stayed. Proceedings before the Appellate Court were not stayed. Admittedly, appeal is pending before the Appellate Authority. There cannot be any impediment for deciding the appeal in accordance with law by the Appellate Authority. It is made clear that order dated 23.09.2016 in any case does not apply to the pending appeal, if the same is to be decided by the Appellate Authority in accordance with law. In all fairness, let the appeal pending before the Appellate Authority be decided within a period of one month from the date of receipt of certified copy of this order.

With these observations, application stands disposed of. “

Petitioner No.1 is a tenant in the premises qua which respondent No.1 claimed title on the basis of registered gift deed and respondents No.2 to 6 claimed title on the basis of sale deed. Title dispute is pending between respondent No.1 and respondents No.2 to 6 collectively. There are four civil suits pending between the respondents, in which both the parties have claimed title qua the rented property in question. Three

eviction petitions were filed by respondent No.1 and one eviction petition was filed by respondents No.2 to 6 against petitioner No.1. Petitioner No.1/tenant filed an inter-pleader suit, in which all the aforesaid litigations were referred to and it was prayed that till decision of title between the respondents, all the four evictions petitions be kept in abeyance.

During pendency of the inter-pleader suit, tenant/petitioner No.1 filed an application under Order 39 Rules 1 and 2 CPC. Trial Court instead of deciding the application under Order 39 Rules 1 and 2 CPC, proceeded to adjourn the inter-pleader suit sine die. The said order has been assailed by the petitioners herein.

During course of arguments, parties have reached at a consensus that the impugned order be set aside to the extent of adjourning the case sine die and not deciding the application under Order 39 Rules 1 and 2 CPC. Even otherwise, I find that there was no justification in adjourning the inter-pleader suit sine die as out of the four suits, the eviction petition titled as Sukhdev Singh and others Vs. M/s Shree Vishnu Processors and others and eviction petition titled Sudarshan Sewa Trust Vs. M/s Shree Vishnu Processors and others have been stayed on the statement of learned counsel appearing on behalf of respondent No.1. Qua eviction petition titled Sudarshan Sewa Trust Vs. M/s

Vishnu Processors and others, Rent Controller has already passed the eviction order, against which appeal is pending before the Appellate Court.

With the consent of both the parties, it is ordered that the impugned order to the extent of adjourning the inter-pleader suit sine die is set aside. Trial Court shall proceed with the suit from the stage at which the same was ordered to be adjourned sine die. The pending application under Order 39 Rules 1 and 2 shall also be decided by the trial Court in accordance with law. Vide order dated 13.07.2017, while making the clarification of order dated 23.09.2016, it was ordered that the pending appeal before the Appellate Court arising out of order of eviction shall be decided in accordance with law within one month from the receipt of certified copy of that order. The said direction shall remain in force. This Court is not commenting upon the maintainability or otherwise of pending inter-pleader suit, however, the said suit shall be decided by the trial Court in accordance with law.

Disposed of.

(RAJ MOHAN SINGH)
JUDGE

21.07.2017
prince

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No