

HARPREET SINGH AULAKH VS VIPIN KUMAR AGGARWAL

Present: Mr. Arvind Mittal, Advocate
for the applicant/respondent.

Mr. H.P.S. Aulakh, Advocate
for the non-applicant/petitioner.

Heard both the sides at considerable length in the review application.

It is the grievance of the review applicant-landlord that the order in review dated 25.09.2017 passed in the main revision is being taken advantage of by the tenant even when the revision petition was disposed of by relegating the petitioner to his remedy before the Appellate Authority. The petition was disposed of with a request to the Appellate Authority to consider that in case the application is filed by the petitioner in the background of issuance of warrants of possession by the Executing Court, then before the warrants are carried out the main appeal should be heard and disposed of as expeditiously as possible. The Court passed the order to avoid miscarriage of justice at a pre-mature stage.

It is pointed out by the learned counsel for the review applicant that the order was passed on 14.05.2015 that the entire arrears of rent were ordered to be paid. It is another matter that with the eviction on 31.01.2015 non-applicant/petitioner lost the status of a tenant and has required to pay mesne profits for use and occupation of the demised premises. That order was not complied with. It may be

mentioned that during the period when the notification was issued by the U.T. Chandigarh making rent laws inapplicable to Chandigarh when the rent was more than Rs. 1500/- per month.

The landlord became a decree holder with the right of recovery of Rs. 99,625/- with interest with the Supreme Court judgment quashing the notification. The present eviction petition was filed before the Rent Controller, Chandigarh for eviction of the tenant on the ground of non-payment of rent. The execution proceedings under the decree continued. The claim for recovery of possession was given up and the suit was restricted to payment of arrears of rent for the period mentioned in the plaint.

To cut the long story short, the tenant admittedly owes arrears of rent of Rs. 10-11 lacs (open to calculation before the Executing Court). Mr. Aulakh, Advocate does not dispute that the rent is due. Accordingly, the non-applicant/petitioner will deposit the entire outstanding rent upto 08.01.2018. In case of default of payment of arrears of rent, the appeal will stand dismissed automatically. The amount of rent calculated as per this order will be deposited before the Rent Controller and kept in a interest bearing fixed deposit account in a nationalized Bank to await the final outcome of the appeal pending before the Appellate Authority.

The learned Appellate Court will adjourn the appeal to 08.01.2018. Similarly, the Executing Court will also adjourn the proceedings to 08.01.2018. There will be no restraint on the progress of the suit for possession by way of specific performance filed by the

tenant, qua the same property. The petitioner/non-applicant will file an affidavit before the Executing Court undertaking to pay the amount, to be furnished on or before 28.11.2017, the date already fixed by the Executing Court.

The Court has informed that the mesne profits have not been paid from September 2017 onwards, on which counsel for the petitioner undertakes to pay the same directly to the landlord, in satisfaction of the petitioner and his mother's claim who are stated to be joint owners of the property.

The Appellate Authority will ensure that mesne profits will be paid up to date from September 2017 and regularly in future. Failure to pay mesne profits would invite automatic eviction on 08.01.2018. The arrears of mesne profits from September 2017 onwards be paid on 07.12.2017 and thereafter the same be paid as ordered by the Appellate Authority and future rent accruing on or before 08.01.2018.

With these observations and directions, the review application stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

13.11.2017
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