

\$~8

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

+ CM(M) 820/2017 & CM No.27495/2017 (for stay)

SATYA DEVI

..... Petitioner

Through: Mr. Rajnish Singh, Adv.

Versus

PRINT LAND INDIA

..... Respondent

Through: Mr. Avadh Kaushik, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

14.09.2017

1. This petition under Article 227 of the Constitution of India impugns the order (dated 11th May, 2017 in CS No.78479/2016 of the Court of Additional District Judge-II (N/W), Rohini, Delhi) of dismissal of the application of the petitioner under Order 12 Rule 6 CPC.
2. Notice of the petition was issued and the counsel for the respondent appears.
3. The counsel for the respondent / defendant fairly states that in the light of the reasons given in the order dated 2nd August, 2017 issuing notice of the petition, he has instructions from Mr. Shyam Singh sole proprietor of respondent Print Land India to agree to a decree on admissions being passed in the suit (from which this petition arises) for ejectment of the respondent / defendant from the Ground Floor, Front Portion, ad-measuring 3400 sq. ft. of property No.A-2, G.T. Karnal Road, Industrial Area, Delhi-110033 and for recovery of arrears of rent at Rs.50,000/- per month with effect from 1st October, 2012 and only seeks time to comply therewith. He further states

that the said Mr. Shyam Singh is in exclusive control and possession of the entire property from which ejectment is sought and is willing to give undertaking to this Court to hand over the possession to the petitioner / plaintiff within the time granted by this Court therefor.

4. The counsel for the petitioner / plaintiff states that the suit was filed as far back as in August, 2013 and the petitioner / plaintiff has also sought *mesne profits* / damages for use and occupation though with effect from 1st November, 2012 but since no court fees has been paid thereon, in fact with effect from the date of institution of the suit.

5. After negotiations, it has been agreed that the respondent / defendant be granted time to vacate the premises and deliver possession thereof on or before 31st December, 2018 and the respondent / defendant pays *mesne profits* with effect from the month of September, 2013 at the rate of Rs.60,000/- per month till the month of September, 2017 and at the rate of Rs.70,000/- per month with effect from October, 2017 till the month of September, 2018 and with effect from the month of October, 2018 till the month of vacation on or before 31st December, 2018 at the rate of Rs.1,50,000/- per month.

6. The petition is accordingly allowed. The order dated 11th May, 2017 impugned in this petition is set aside. Resultantly, the application of petitioner / plaintiff under Order XII Rule 6 CPC for decree on admissions is allowed.

7. Accordingly, a decree on admissions and consent is passed in favour of the petitioner / plaintiff and against the respondent / defendant i) for ejectment of the respondent / defendant from entire premises let out to him

vide registered lease deed dated 22nd October, 2009 and with respect whereto the suit from which this petition arises was filed; however subject to the respondent / defendant complying with his undertaking as hereinabove recorded, the respondent / defendant is granted time till 31st December, 2018 to vacate the premises; ii) for recovery of arrears of rent at the rate of Rs.50,000/- per month from 1st October, 2012 till 31st August, 2013; iii) for recovery of *mesne* profits for use and occupation charges, with effect from 1st September, 2013 till 30th September, 2017 at the rate of Rs.60,000/- per month; with effect from 1st October, 2017 till 30th September, 2018 at the rate of Rs.70,000/- per month and with effect from 1st October, 2018 till the month of vacation of the premises on or before 31st December, 2018 at the rate of Rs.1,50,000/- per month.

8. The petitioner / plaintiff shall also be entitled to costs of the suit equivalent to the Court fees paid on the plaint in the suit from which this petition arises.

9. The respondent / defendant Shyam Singh through counsel undertakes to this Court:

- (i) to, on or before 31st December, 2018 hand over vacant peaceful physical possession of the entire premises with respect to which the registered lease deed dated 22nd October, 2009 was executed and with respect to which the suit from which this petition arises was filed;
- (ii) to, on or before 31st March, 2018, pay the arrears of rent / *mesne profits* due under the decree aforesaid till 30th September, 2017 to the petitioner / plaintiff or her legal

representatives, in equal installments, every month with effect from the month of October, 2017 along with the future *mesne* profits as aforesaid;

- (iii) to pay *mesne* profits as decreed with effect from the month of October, 2018 to the petitioner / plaintiff or her legal representatives, month by month, in advance for each month by the 10th day of each month;
- (iv) to clear the electricity and water dues of the premises till the date of occupation thereof, before leaving the premises; and,
- (v) to hereinafter not induct any other person into possession of the premises and to not damage the premises.

10. The aforesaid undertakings of the respondent / defendant through counsel are accepted and the respondent / defendant / his legal representatives are ordered to be bound therewith.

11. It is made clear that in the event of the respondent / defendant / his legal representative being in breach of the aforesaid undertakings or any part thereof, the petitioner / plaintiff, besides initiating proceedings against the respondent / defendant / his legal representatives for breach of undertaking given to the Court, shall also be entitled to forthwith execute the decree aforesaid in entirety.

12. The counsel for the respondent / defendant at this stage points out that though this Court in order dated 2nd August, 2017, while issuing notice of this petition directed the copy of the order dated 2nd August, 2017 to be

forwarded to the learned ADJ from whose order this petition has arisen but such directions do not appear to be having any effect. He has today in Court handed over copies of the order dated 12th July, 2016 in C.R.P. No.93/2016 and order dated 23rd February, 2016 in RFA No.95/2016 and states that similar directions were made therein also but without any desired results.

13. A copy of the order dated 2nd August, 2017 in this petition along with the copies of the orders dated 12th July, 2016 and 23rd February, 2016 handed over along with a copy of this order be forwarded to Hon'ble the Chief Justice for appropriate action.

No costs.

Dasti

RAJIV SAHAI ENDLAW, J

SEPTEMBER 14, 2017

'gsr'..