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

+ CONT.CAS(C) 626/2015

CDR SUNEET AHUJA Petitioner
Through: Ms. Parul Sharma, Advocate.

versus

LT COL (RETD) V P CHILLAR & ORS Respondents
Through: Mr. Abhinav Bajaj, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

% **ORDER**
08.03.2017

Even at the pass over stage, learned counsel for petitioner prays for an adjournment.

In fact, the present case had been reluctantly adjourned on the last date of hearing at the request of learned senior counsel for the petitioner as she wanted to bring the rejoinder affidavit along with an additional affidavit on record. However, the same have not been brought on record till date.

Consequently, the request for adjournment is declined.

Learned counsel for petitioner states that respondent-wife has wilfully disobeyed the judgment and order dated 06th November, 2013 passed by a Division Bench of this Court in FAO 44/2013 inasmuch as it directed that the Gurgaon property would be put on lease by the petitioner-husband and the net amount of rent would be shared equally between the petitioner-husband and respondent-wife. Learned counsel for petitioner states that

despite the aforesaid order, respondent-wife leased out the property in question on her own.

Learned counsel for petitioner further states that the petitioner has recently applied for clarification of the order dated 06th November, 2013 and this Court should adjourn the matter to await the clarification.

However, a perusal of the paper book reveals that the cause of action for filing the present contempt petition arose on 19th December, 2013 when the respondent-wife is alleged to have leased out the property to the tenant on her own i.e. without consulting and taking appropriate permission of the petitioner.

On 17th February, 2014, the petitioner filed an application under Order 26 Rule 9 CPC seeking appointment of the Local Commissioner to rent out the property in question.

On 05th May, 2014, respondent-wife admittedly communicated to the petitioner that the property in question had been leased out by her due to financial constraints and as the petitioner had failed to rent out the property for a long time. In the said letter, it was pointed out that the petitioner's share of the rent had been deposited in the petitioner's salary account.

Thereafter, on 29th May, 2014, learned counsel for petitioner-applicant had withdrawn his application for appointment of Local Commissioner on the ground that "*a settlement has been arrived at between the parties with regard to the rent of the premises in question*".

At this stage, learned counsel for petitioner states that the aforesaid statement had been made by the previous counsel for petitioner without any instructions and without any information to the petitioner.

However, this Court finds that no legal proceedings have been

initiated by the petitioner against his previous counsel till date. Consequently, this Court finds no merit in this alibi.

This Court is further of the view that counsel for the petitioner having made a statement that the matter had been settled with regard to the rent of the premises, the present contempt petition is not maintainable. Moreover, the petitioner's plea that he has applied for clarification shows that the present petition is bereft of merits. After all, contempt is a quasi criminal proceeding wherein the guilt has to be proved beyond reasonable doubt.

As the petitioner has failed to do so, the present petition is dismissed and the notices issued are discharged.

MANMOHAN, J

MARCH 08, 2017

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