

\$~42

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

+ RC.REV. 513/2017 & CM No.40742/2017 (for stay)

SHYAM SUNDER AGGARWAL Petitioner
Through: Mr. Sanjeev Ralli and Mr. Nilesh
Sawhney, Advs.

Versus

DAYAWATI Respondent
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **13.11.2017**

1. This order is in continuation of the earlier order dated 10th November, 2017.
2. The counsel for the petitioner, after some arguments, states that the petitioner does not press this petition and will abide by the order of eviction impugned in this petition and withdraws this petition and only seeks some reasonable time to vacate the premises.
3. It has come in the order dated 10th November, 2017 that the warrants of possession in pursuance to the order of eviction had been issued and the bailiff allocated for 1000 hours today morning.
4. This matter though listed as Item No.42 in the Cause List of this Court has been taken up on mentioning at 1120 hours.
5. The counsel for the petitioner, on enquiry, states that though the bailiff of the Court is at the site but possession has not been taken as yet.

6. The petitioner however on 10th November, 2017 was not willing to deposit monies in this Court for the order for holding over the delivery of possession. It has as such been enquired from the counsel for the petitioner, as to what amount is the petitioner willing to pay now.
7. The counsel for the petitioner states that the petitioner, instead of earlier rent of Rs.800/-, would now pay Rs.10,000/- per month to the respondent/landlord.
8. The amount of Rs.10,000/- offered is not found to be the compensation for a shop in Chawri Bazar, Delhi where 15 peoples are stated to be working.
9. In this view of the matter, no purpose will be served in issuing notice of the petition for this limited purpose also.
10. At this stage, it is stated that the petitioner will pay Rs.1 lakh per month for time till June, 2018.
11. Subject to the petitioner paying Rs.2 lakhs for the months of October, 2017 & November, 2017 just now to the respondent/landlord or her authorised representative in front of the bailiff and further subject to the petitioner giving undertaking in the usual form to this Court, issue notice to the respondent by all modes including *dasti* returnable at 1415 hours today itself.
12. The counsel for the petitioner is permitted to communicate this order on his own letter head to the respondent/landlord.
13. It is made clear that if by now i.e. 1130 hours, the petitioner has already been dispossessed from the premises, this order will not entitle the petitioner to re-possession of the premises.

14. The matter to be taken up post-lunch today itself.

RAJIV SAHAI ENDLAW, J.

NOVEMBER 13, 2017

15. The matter has been taken up at 1430 hours.

16. The counsel for the respondent appears and states that two-third of the goods of the petitioner had been removed by the time the communication was received from the petitioner but no further proceedings have been taken thereafter and the Bailiff is on hold.

17. The counsel for the respondent has fairly agreed to grant of time till 30th June, 2018 to the petitioner to vacate the premises subject to the petitioner undertaking to this Court and the undertaking of the petitioner being accepted.

18. It is informed that Mr. Prabhat Aggarwal, son of the petitioner, is present in person.

19. The counsel for the petitioner and the said Mr. Prabhat Aggarwal state that the petitioner is in control and possession of the entire premises with respect to which order of eviction has been passed and is in a position to furnish undertaking in the usual form to this Court.

20. The petitioner and the son of the petitioner Mr. Prabhat Aggarwal undertake to this Court to:

- (i) hand over vacant peaceful physical possession of the premises from which the petitioner has been ordered to be evicted, to the respondent, on or before 30th June, 2018;
- (ii) on or before 30th November, 2017 clear all arrears of rent from the date it is due till the month of September, 2017 @ Rs.855/- per month;
- (iii) with effect from the month of October, 2017 and till the month of vacation of the premises on or before 30th June, 2018 pay use and occupation charges to the respondent at the rate of Rs.1,00,000/- per month, month by month, in advance for each month by the 10th day of each English Calendar month;
- (iv) clear the electricity and water dues of the premises till the date of occupation thereof, before leaving the premises; and,
- (v) hereinafter not induct any other person into possession of the premises and to not damage the premises.

9. The counsel for the petitioner has today in Court handed over a cheque for Rs.2,00,000/- to the counsel for the respondent and states that the same is good for payment.

10. It is clarified that all payments shall be without deduction of tax and the respondent shall be liable for payment and deposit of tax thereon.

11. The aforesaid undertakings of the petitioner and Prabhat Aggarwal are accepted and the petitioner/his legal representatives and Prabhat Aggarwal are ordered to be bound therewith.

12. The petitioner has been explained the consequences of breach of undertaking given to this Court.

13. I have otherwise satisfied myself that the order dated 7th March, 2017 impugned in this petition is in accordance with law.

14. The petition is accordingly dismissed as withdrawn; however subject to the petitioner/tenant complying with his undertaking aforesaid, the order of eviction is made inexecutable till 30th June, 2018.

15. It is made clear that in the event of the petitioner/his legal representatives being in breach of the undertaking or any part thereof, the respondent, besides initiating proceedings against the petitioner / his legal representatives for breach of undertaking given to the Court, shall also be entitled to forthwith execute the order of eviction.

No costs.

RAJIV SAHAI ENDLAW, J.

NOVEMBER 13, 2017

bs/gsr..