

Civil Revision No. 5177 of 2018 (O&M)

Date of decision : August 10, 2018

Suman Bhushan

.....Petitioner

Versus

Shri Krishan Bhagwan

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Raman B. Garg, Advocate
for the petitioner.

LISA GILL, J.

This petition has been filed for setting aside orders dated 02.07.2018 and 01.08.2018 (Annexures P-1 and P2) passed by the learned Executing Court. Eviction of the petitioner had been ordered by the learned Rent Controller vide decision dated 31.08.2016. Appeal was preferred by the petitioner, which is still pending consideration. Learned appellate authority vide order dated 29.11.2016 (Annexure P-3) afforded interim relief subject to payment of arrears of rent, if any, alongwith interest at the rate of 8% per annum from the date of order of eviction till actual payment within one month. It was further directed that the petitioner shall keep on depositing the use and occupation charges at the rate of ₹2,500/- per month.

Learned counsel for the petitioner submits that an application was moved before the learned Executing Court seeking warrants of possession on the ground that order dated 29.11.2016 (Annexure P-3) has not been complied with. Warrants of possession were issued by the learned Executing Court on 02.07.2018 and 01.08.2018. It is submitted that no notice was ever served upon the petitioner though the counsel representing the petitioner before the learned appellate authority has filed his memo of appearance. Moreover, the amount as directed by the learned appellate

authority stands deposited. The petitioner has in fact deposited the usage and occupation charges till 31.12.2018 itself. He undertakes to continue paying the said amount regularly.

Heard, learned counsel for the petitioner.

This petition is being disposed of without issuance of notice to the respondent as the said course would unnecessarily lead to delay in matter.

It is noticed that an application dated 04.08.2018 (Annexure P-5) has been filed by the petitioner before the learned appellate authority in this respect. The said application is pending for 16.08.2018 after issuance of notice. At this stage, it is not considered appropriate to express any opinion on the merits of the matter. It is to be noted that the petitioner is categorically stated to have submitted all the arrears and further deposited the usage and occupation charges till 31.12.2018. The receipts thereof have been appended with this petition.

Keeping in view the facts and circumstances of the case but without expressing any opinion on the merits of the controversy, this petition is disposed of with a direction to learned appellate authority to decide the application dated 04.08.2018 (Annexure P-5) filed by the petitioner, if not on 16.08.2018 then within three weeks thereafter positively. Till then, dispossession of the petitioner from the demised premises shall remain stayed. It is reiterated that there is no observation on the merits of the case.

August 10, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No