

\$~63

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 724/2018 and CM Appl. No. 25928/2018**

M/S LOHIA WAREHOUSE PVT LTD Petitioner
Through: Mr.____, Advocate (appearance not
given)

versus

PRADEEP GANDOTRA & ANR Respondents
Through: Mr.Deepak Dewan and Mr.Vansh
Gandotra, Advocates

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **30.07.2018**

Vide the present petition, the petitioner assails the impugned order dated 2.6.2018 of the District & Sessions Judge (South-East) in SDJ No. 6820/2016 whereby the defendant to the said suit, i.e., the present petitioner was granted last and final opportunity to pay the complete outstanding rent in accordance with order dated 18.7.2017 of this Court in FAO No. 605/16 within a period of four weeks failing which it was observed that the written statement shall be struck off the record.

Vide order dated 18.7.2017 of this Court in FAO 605/2016 which had been filed by the respondent to the present petition as appellants, assailing the order dated 22.8.2016 of the learned Trial Court dismissing the application of the appellants, i.e., the plaintiffs

of the said suit as also respondent No.1 and 2 to the present petition under Order 39 Rule 10 CPC which had been declined which order dated 22.8.2016 was set aside vide order dated 18.7.2017 of this Court, directing the respondent No.2, i.e., the present petitioner to pay to the appellant, i.e., the respondents No.1 and 2 to the present petition, the admitted rate of rent from August, 2015 till 7.5.2016. The petitioner has already vacated the tenanted premises on 7.5.2016 and vide order dated 18.7.2017, in FAO 605/2016 of this Court, the tenant, i.e., the petitioner herein, was directed to pay the plaintiff, i.e., the respondents herein, the amount directed thereby within a period of one month from the date of the said order dated 18.7.2017 which was challenged by the petitioner herein, vide a review petition before this Court bearing Rev. No. 342/2017 which was declined vide order dated 25.8.2017 with costs of Rs.15,000/- being directed to be deposited in the website www.bharatkeveer.gov.in with an affidavit of compliance qua certificate of deposit of costs was also directed to be filed within a period of two weeks in terms of order dated 25.8.2017.

The orders dated 18.7.2017 and 25.8.2017 of this Court, were assailed by the present petitioner before the Hon'ble Supreme Court and vide order dated 13.11.2017 in SLP Nos. 29968-29969/17 the challenge to the said orders dated 18.7.2017 and 25.8.2017 of this Court in FAO No. 605/16 and Rev. Petition No. 342/2017 was repelled with the said SLP Nos. 29968-29969/2017 having been dismissed.

It has been submitted on behalf of the petitioner that vide order dated 18.7.2017, there was no direction in relation to deposit qua the security amount and that the said amount needs to be deposited.

It is essential to observe that vide para 3 of the order dated 18.7.2018 of this Court in FAO 605/16 which has already been upheld as already observed herein above vide order dated 13.11.2017 by the Hon'ble Supreme Court in SLP Nos. 29968-29969/2017, the said contention of the petitioner herein has not been accepted it having been observed to the effect that the arguments in relation to the entitlement of the tenant qua the security deposit in the circumstances in relation to the application under Order XXXIX Rule 10 CPC was misconceived.

In the circumstances, there is no merit in the petition. The petition is thus dismissed.

Time is sought on behalf of the petitioner to comply with the order dated 18.7.2017 of this Court in FAO No.605/16 and the impugned order dated 2.6.2018 in SDJ No. 6280/16. The petitioner is granted time qua compliance of the directions dated 18.7.2017 of this court till 14.8.2018 as a last and final opportunity.

ANU MALHOTRA, J

JULY 30, 2018/sv