

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

% *Date of Judgment: 26.11.2018*

+ **C.R.P. No.148/2018 & C.M. Nos.29491/2018, 48835/2018**

PRAMOD KUMAR RASTOGI Petitioner
Through: Petitioner in person.

Versus

MANGAL SAIN KUMRARespondent
Through: Mr. Somesh Chandra Jha & Mr.Anand
Darshan, Advocates.

CORAM:
HON'BLE MR. JUSTICE VINOD GOEL

VINOD GOEL, J. (ORAL)

1. The impugned order dated 21.05.2018 passed by the court of learned Additional District Judge-04, Patiala House Courts, New Delhi ('ADJ') in Civil Suit No.59100/2016 is the subject-matter of challenge in the present civil revision petition.

2. Admittedly, the petitioner is a tenant in the premises in question since 26.06.2011. The premises in question was taken by him on rent initially @ Rs.18,000/- per month from the respondent. Subsequently, a fresh agreement was executed between the parties and the last agreed rate of rent was Rs.19,000/- per month. The

respondent/plaintiff filed a civil suit for possession, recovery of rent and mesne profits. Admission of tenancy and lease deed by the petitioner led the respondent/plaintiff to file an application under Order XII Rule 6 of the Code of Civil Procedure (CPC) before the Ld. 'ADJ' to pass judgment and decree. Arguments have already been heard on this application by the Ld. 'ADJ' on 21.05.2018 and case was fixed for orders on 30.07.2018.

3. Learned counsel for the respondent/plaintiff has drawn the attention of the court to the order dated 25.01.2018 of Ld. 'ADJ' by which the petitioner was directed to make the payment of the rent to the respondent/plaintiff for the month of April and May, 2016 on the next date. This order was assailed by the petitioner by preferring a Civil Revision Petition No.40/2018 which was dismissed as withdrawn on 13.03.2018. The order passed by the trial court dated 25.01.2018 has, thus, attained finality. Subsequently, the learned 'ADJ' by order dated 19.03.2018 again observed that the petitioner has failed to make the payment of rent for the month of April and May, 2016 in terms of the orders dated 25.01.2018, 05.03.2018 and 16.03.2018.

4. It is a case where the petitioner is enjoying the property without payment of even the admitted rent from April, 2016 despite the order of the Court of learned 'ADJ' dated 25.01.2018. The petitioner contends that his application filed under Order VI Rule 17 CPC is pending disposal before the learned 'ADJ' who has not decided the

same. Since the arguments have already been heard by the learned 'ADJ' on the application of the respondent/plaintiff under Order XII Rule 6 CPC, and order is reserved, I do not find any merit in the petition to direct the Trial Court to first hear the application of the petitioner/defendant under Order VI Rule 17 CPC and not to decide application of the respondent/plaintiff under Order XII Rule 6 CPC.

5. The petition is accordingly dismissed along with CM APPL. 29491/2018, with direction to the trial court to decide the application under Order XII Rule 6 CPC on the next date in accordance with law.

6. In view of the above, the application being CM APPL. 48835/2018 seeking vacation of stay is disposed of as infructuous.

NOVEMBER 26, 2018
'AA'

(VINOD GOEL)
JUDGE