

(101)

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No. 3959 of 2011 (O&M)
Date of Decision: 02.09.2019

LALITA RANI

..... Petitioner

Versus

SHOBA RASTOGI & ANR

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Mukul Aggarwal, Advocate,
for the non-applicant/petitioner.

Mr Narender Pal Bhardwaj, Advocate,
for the applicants-respondents.

SUDIP AHLUWALIA, J. (ORAL)

CM-8075-CII-2019

1. With reference to the direction issued in the last order passed on 19.08.2019, the petitioner has filed an affidavit giving all details of the payment made by him regarding ground floor of the disputed premises for the period between 01.05.1998 to 30.09.2019. The respondents have filed an unverified table which is tendered by their Ld. Counsel. Perusal of the same goes to show that till the date of passing of the order on 29.04.2009, referred to in the last order, an amount of ₹3,45,000/- had remained outstanding as against the petitioner.

2. In such circumstances, the order passed by a Coordinate Bench in this case earlier on September 30, 2015 assumes significance. It reveals that earlier also the respondent land-lady had filed a similar application praying for vacating the stay order dated 24.06.2011 on the alleged ground of non-payment of the rent/arrears, as again made out in the present application. But the said application (CM-9177-CII-2014) was itself not pressed on behalf of the respondents, and the relevant proceedings, as recorded in the order dated 30.09.2015, are set out below:-

“Learned counsel for the petitioner/JD contends that the stay order granted by this Court is in operation since 24.06.2011. And entire arrears of rent w.e.f 01.05.1998, @ 15,000/- per month, upto December, 2015 have since been deposited. Further the petitioner/JD undertakes to deposit the future rent by 7th of every month in the joint bank Account No. 113810002356 of the landlords (provided by them in Court today), in Dena Bank, Nicholson Road, Ambala Cantt. And in the event of even a single default, the respondents/DH shall be at liberty to execute the order of eviction forthwith.

That being so, the CM is disposed of as not pressed”.

3. From the Table filed on behalf of the respondents today, it transpires that the alleged default, even assuming but not admitting as true did actually take place, nevertheless pertains to the period up-to 30.06.2009 only. It was therefore, well within the knowledge of the respondents-applicants, on whose behalf the previous CM-9177-CII-2014 was filed, and then withdrawn as not pressed.

4. In such circumstances, this Court is not inclined to reopen the same matter again on the basis of a fresh application for an identical purpose, which was agitated four years back.

5. In the aforesaid reasons the present application is dismissed at this stage.

6. It has, however, been brought to the notice of this Court that a subsequent rent petition on a fresh cause of action on the ground of personal necessity was filed on behalf of the respondents, which was allowed by the Ld. Rent Controller and against which Rent Appeal No. 12 of 2019 is currently pending before the Appellate Authority, Ambala. A copy of the order passed by the Learned Appellate Authority on 26.08.2018 has been tendered by the learned counsel for the respondents. It reveals that on submission of the non-applicant/petitioner, hearing of the appeal was deferred on that date on account of the fact that the present application along with the connected revision petitions had been listed before this Court for today, and the Learned Appellate Authority thereafter adjourned the proceedings to 05.09.2019 with the following observations;

“ Even otherwise, this Court would require the orders passed by the Hon'ble High Court in the previous litigations with a view to arrive at a proper conclusion. To that extent, a rehearing would be essential.

Adjourned to 05.09.2019 for the said purpose.”

7. In this regard, this Court is constrained to observe that pendency of the proceedings arising out of the earlier eviction order passed in favour of the applicants-respondents is absolutely no ground for

deferring hearing on the appeal filed against a subsequent eviction order passed on a different cause of action.

8. Consequently the Learned Appellate Authority is directed to decide the pending appeal as expeditiously as possible preferably on the date on which it is already fixed, i.e., 05.09.2019, and if not practicable to do so, then to endeavour to finally dispose off the same within a period of two months from the date of communication of this order.

CR-3959-2011

As the original eviction order as well as the impugned decision of the Appellate Authority have already been set aside in connected matter bearing CR-1352-2007 by a detailed order passed separately today, the present revision is rendered infructuous and is, accordingly, disposed off as such.

September 02, 2019
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(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/ reasoned : Yes/ No
2. Whether reportable : Yes/ No