

Devi Sahai

.....Petitioner

Versus

Triloch Pathak

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAURPresent: Petitioner Devi Sahai in person with counsel
Mr. Bhrigu Dutt Sharma, Advocate.Respondent Triloch Pathak in person with counsel
Mr. Divanshu Jain, Advocate.**NIRMALJIT KAUR, J. (ORAL)**

Learned counsel for the petitioner on instructions from the petitioner, who is present in the Court, submitted that he does not wish to press the petition but one year time be granted to vacate the premises.

Learned counsel for the respondent while vehemently opposing the prayer submitted that the petitioner is not entitled to get time to vacate the premises in view of the violation of the conditional stay granted by this Court, vide order dated 12.12.2017, vide which, the petitioner was required to deposit the mesne profit and the rent at the rate of ₹20,000/- per month as assessed by the Appellate Authority. The operative part of order dated 12.12.2017 is as under:-

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“Further execution proceedings, if any, shall remain stayed till further orders. It will be subject to clearance of pending mesne profits on or before the next date of hearing and the rent at the rate of ₹20,000/- per month as assessed by the appellate authority.”

The petitioner failed to comply with the condition since 01.08.2018. No mesne profit having been paid for the last one year, the stay order is automatically deemed to have been vacated and the petition too is also accordingly liable to be rejected on this ground.

This fact is not disputed by learned counsel for the petitioner and on instructions from the petitioner, who is present in the Court, states that he cannot pay the mesne profit and pleads that he may be allowed to stay for one year further without payment of mesne profit for the last one year as also for the future, till such time, he vacates the premises.

However, this Court neither on the basis of the conduct of the petitioner on account of non payment of mesne profit or on the stand that he is not in a position to pay the mesne profit even in future, can accept his prayer. The same is accordingly rejected.

However, in spite of the above and taking a lenient view, the petitioner is granted one year time to vacate the premises but subject to the deposit of one year mesne profit for the period from 01.08.2018 to 31.07.2019 within 15 days from today. In case, the said amount is not deposited within 15 days, the respondent shall be at liberty to proceed with the execution proceedings and seek possession.

It is clarified that in case the said amount is paid, the petitioner will be entitled to stay for another one year as per the concession given by learned counsel for the respondent on instructions from the respondent, who is present in the Court. Further, in case the petitioner deposits the mesne profit for the last one year, within 15 days, he shall not be dispossessed for another one year without payment of mesne profit, subject to giving his undertaking that he shall vacate the same on or before 31.07.2020 and also

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continue to pay the water and electricity bill. However, the said undertaking shall also be given alongwith the mesne profit to be deposited by the petitioner within 15 days before the Executing Court. During the extension of one year, the petitioner shall continue to pay the electricity and water bills. In case, the petitioner does not pay the same regularly, the respondent shall be at liberty to proceed with the execution proceedings and shall also be liable for being proceeded under contempt of Court in case he violates any of the undertaking given before the Executing Court.

(NIRMALJIT KAUR)
JUDGE

19.07.2019
sandeep

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No