

\$~105 (Appellate)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 395/2022**

SUCHIT GUPTA

..... Petitioner

Through: **Mr. Kunal Kalra, Adv.**

versus

GAURAV SAINI & ANR.

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGEMENT (ORAL)

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28.04.2022

CM APPL. 20533/2022 (Exemption)

1. Allowed, subject to all just exemptions.
2. The application is disposed of.

CM(M) 395/2022 and CM APPL. 20532/2022 (Stay)

3. The petitioner is principally aggrieved by the imposition, by the learned Additional Rent Controller ("learned ARC") on the petitioner, of costs of ₹ 5 lacs, for "misusing the process of law and causing inconvenience to the Government machinery".

4. An eviction order was passed in favour of the petitioner and against the respondents by the learned ARC (the Predecessor in office of the officer, who passed the impugned order), on 4th November, 2019.

5. The petitioner applied for execution of the said order. Warrants of possession were directed to be issued by the learned ARC on 22nd March, 2022. Consequent thereupon, the Bailiff visited the premises of the respondents on 11th April, 2022. When the Bailiff reached the premises of the respondents, Mr. Sanjay Saini, who is Respondent 2, informed the Bailiff that the petitioner had, in writing, allowed Respondent 2 two months' time to vacate the premises. Noting this fact, the Bailiff filed his report before the Court of the learned ARC.

6. Learned ARC appears to have taken unnecessarily adverse notice of these facts. Learned ARC has, in the impugned order dated 21st April, 2022, recorded, in no uncertain terms and without mincing words, his displeasure at the fact that, having got warrants of possession issued by the learned ARC, because of which the Bailiff had to visit the premises of the respondents in order to ensure their eviction, the petitioner nonetheless granted the respondents two months' time to vacate. According to the learned ARC, though time was granted by the petitioner voluntarily, at the time when he visited the premises of the respondents with the Bailiff, the conduct of the petitioner indicated that "he wanted to put pressure upon the JDs by getting the Warrants of Possession issued from the Court". This, according to the learned ARC, amounted to an abuse of process of law and caused great loss to the Government exchequer, as the Bailiff and the police officials were Government Servants, who had to spare time from their other official duties in order to get the Warrants of Possession executed. The learned ARC has characterized the case as

“a classic case of abuse of process of law and abuse of Government machinery by the DH with an intention to harass and intimidate the JDs”.

7. Learned Counsel for the petitioner submits that there was no cause for the learned ARC to express such displeasure in the matter, as he had fairly agreed to allow the respondents two months’ time to vacate the premises only because, when he visited the premises with the Bailiff in order to get the warrants of possession executed, the respondents pleaded for time to vacate the premises as they were using it for commercial purposes. He submits, with justifiable chagrin, that the grace shown by him in allowing the respondents time as sought, has resulted in his having to suffer costs of ₹ 5 lacs as imposed by the impugned order.

8. The present petition is also accompanied by an affidavit of Respondent 2 in which he has confirmed thus:

“2. I say that on 11.04.2022, on my request and on the request of my family members, the petitioner has granted two months time to us to hand over the vacant peaceful possession of the property. The petitioner has given the said time on humanitarian ground to ensure that the goods of the respondents may not be thrown out on the road. I and my entire family is obliged to the petitioner for granting the said time.”

9. To say the least, the impugned order is completely unwarranted on facts and in law. Frankly, I am unable to understand the reason for the learned ARC having expressed the sentiments that he has chosen to express in the impugned order. There was no justification

whatsoever, in my view, for the learned ARC to take exception at all, much less such serious exception, to the fact that the petitioner had fairly agreed to allow the respondents to continue in the tenanted premises for two more months. It is not as though the petitioner had earlier granted time to the respondents and, concealing the said fact, had got warrants of possession issued. At the time when warrants of possession were issued, the respondents had not asked for any further time to continue in the premises. It was only when the petitioner visited the premises with the Bailiff that the respondents pleaded for further time, which was fairly granted by the petitioner.

10. It is indeed ironical that an eminently fair attitude, exhibited by the petitioner, aroused the wrath of the learned ARC and invited, on the head of the petitioner, costs of ₹ 5 lacs.

11. Mr. Kunal Kalra, learned Counsel for the petitioner, further submits that his client was made to wait for two days in the Court from morning till evening, before the impugned order came to be passed.

12. This Court unequivocally expresses its discomfiture at the manner in which the impugned order has come to be passed. In order that the career of the learned ARC, who appears to be a fairly young Judicial Officer, is not prejudiced, I deem it appropriate to close this matter by setting aside the impugned order insofar as it imposes costs of ₹ 5 lacs to the petitioner, with a word of advice to the learned ARC to ensure that, in future, a great degree of temperance is exhibited by

him in discharge of his judicial functions. Unwarranted and needless hypersensitivity is not expected of Judicial Officers, who are expected, at all times to maintain composure and poise, befitting the office they hold.

13. This petition stands allowed in the aforesaid terms. Miscellaneous application is also disposed of.

14. Let a copy of this order be communicated to the learned ARC who passed the impugned order dated 21st April, 2022, at whichever posts he happens to be holding as on date.

APRIL 28, 2022
r.bararia

C.HARI SHANKAR, J

