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

Date of decision: 08.12.2023

+ CM(M) 1840/2023 & CM APPL. 58012/2023

CHANDAN BHATIA

..... Petitioner

Through: Ms. Shyel Trehan, Mr. Sumeet Kaul,
Mr. Himanshu Singhal and Mr.
Maneesh Kumar, Advocates

versus

MR SATISH SINGHAL & ANR.

..... Respondents

Through: Mr. Swaran Kamal Singh, Advocate

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This Petition filed under Article 227 of the Constitution of India impugns the order dated 25.10.2023 passed by the ACJ/CCJ/ARC (West), Tis Hazari Court, Delhi in CS SCJ No. 1688/2022, titled as **Satish Singhal v. Chandan Bhatia**, whereby the application filed by the defendant i.e., the Petitioner herein under Order IX Rule 13 of the Code of Civil Procedure, 1908 ('CPC') was dismissed.

1.1. The Petitioner herein is the defendant and the Respondents herein are the plaintiffs before the Trial Court. The Petitioner is the tenant and the Respondents are the owners of the suit property.

1.2. The Respondents herein filed a suit for recovery of arrears and



possession of the property bearing flat no. 678, Block GH13, First Floor, DDA SFS, MIG Flat, Paschim Vihar, New Delhi ('suit property'), along-with the application under Order XXXIX Rule 1 and 2 of CPC. The summons in the suit were issued to the Petitioner on 02.11.2022.

1.3. The Trial Court vide the order dated 01.03.2023, closed the right of the Petitioner herein to file the Written Statement and proceeded ex-parte against the Petitioner.

1.4. The Petitioner herein on 07.06.2023 filed an application under Order IX Rule 13, CPC, for setting aside the order dated 01.03.2023. The Trial Court vide the impugned order dismissed the said application of the Petitioner.

2. The learned counsel for the Respondents has entered appearance.

3. The learned counsel for the Petitioner states that in compliance with this Court's order dated 08.11.2023, the Petitioner has deposited with the Registry of this Court four (4) demand drafts of Rs. 90,000/- each; and in this manner, the entire amount of Rs. 3,60,000/- stands paid for the period of April, 2022 to November, 2023 (20 months) calculated at Rs. 18,000/- per month.

3.1. She states on instructions that the use and occupation charges at Rs. 18,000/- for the month of December, 2023 shall be paid into the bank account of the Respondents on or before 15.12.2023 and subsequently, for each calendar month, it will be paid on or before 7th of the said month. For instance, for the month of January, 2024, the use and occupation charges will be paid on or before 07.01.2024. Needless to state, that the aforesaid payment is exclusive of all the other charges, which the Petitioner has to bear under the lease deed.



4. The Petitioner is directed to file an undertaking to this effect before the Trial Court within two (2) weeks.

5. In view of the aforesaid undertaking given by the Petitioner for payment of future use and occupation charges and the remittance of the arrears, with the consent of the parties, the impugned order dated 25.10.2023 is set aside and the Petitioner is directed to comply with the following conditions: -

(i) The Petitioner will file his Written Statement and his affidavit of admission/denial of documents filed with the plaint within a period of two (2) weeks.

(ii) The Respondents will file their replication along-with affidavit of admission/denial of documents and additional documents, if any, within a period of four (4) weeks thereafter.

(iii) The parties shall appear before the Trial Court on 04.01.2024.

6. In view of the aforesaid directions, the order of the Trial Court dated 01.03.2023 and 25.10.2023 is set aside.

7. The Registry is directed to release the four (4) demand drafts deposited by the Petitioner under the cover of his letters dated 09.11.2023, 16.11.2023, 24.11.2023 and 01.12.2023 to the Respondent or his authorised representative within a period of one (1) week.

8. It is directed that if the Petitioner herein defaults in making payment of the future use and occupation charges, then his defence will be struck off as per Order XVA CPC. This order shall operate as a show cause to the Petitioner as per Order XVA (2) of CPC and no further show cause will be issued to the Petitioner.

9. It is noted from the record that the Petitioner has been grossly



negligent in prosecuting this matter, which has unreasonably delayed the trial from November, 2022 for the period of 12 months.

9.1. At this stage, the Petitioner undertakes to this Court that he shall remain duly represented before the Trial Court on each date of hearing; and not seek any adjournment.

9.2. It is further directed that in case, the Petitioner defaults in appearing before the Trial Court and cooperating in expeditious disposal, the Trial Court will be at liberty to exercise its jurisdiction under Order 17 CPC and in those circumstances, the previous order dated 01.03.2023 proceeding ex-parte against him will be duly taken into consideration.

10. With the aforesaid directions, the present petition stands disposed of.

11. Pending application(s) if any stands disposed of.

Mediation

12. At this stage, learned counsel for the parties state that they are willing to consider possibility of settlement. Accordingly, with the consent of the parties, the matter is referred to the Delhi High Court Mediation and Conciliation Centre on 21.12.2023 at 03:00 PM. The report of the Mediation will be sent to the Trial Court in CS SCJ 1688/2022 pending between the parties.

13. It is clarified that the pendency of the Mediation proceedings will not be a ground for the Petitioner not complying with the timelines set out in the order hereinabove for timely completion of pleadings and payment of use and occupation charges.

MANMEET PRITAM SINGH ARORA, J

DECEMBER 8, 2023/rhc/sk

Click here to check corrigendum, if any