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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of decision: 24.04.2024

Sudarshan Kumar Ghai

...Petitioner.

Versus

Kapsons Agencies Private Limited

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Ashok Sehgal, Advocate for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 20.04.2024, passed by Additional District Judge, Chandigarh, vide which application under Order 41 Rule 5 CPC for grant of stay moved by the petitioner was dismissed. Further, the petitioner has challenged the order dated 08.04.2024 passed by Rent Controller-cum-Civil Judge (Jr. Divn.), Chandigarh, passed in CIS No.Exe.134/2014 vide which application moved by the petitioner/ JD for awaiting the decision of the curative petition against orders passed in review petition No.1923-2023, has been dismissed.

2. The brief facts relevant for adjudication of the present revision petition are that respondent/ landlord filed an eviction petition against the petitioner/ tenant for his eviction from the premises in question before the Rent Controller, Chandigarh which was allowed. The appeal preferred

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before the Appellate Authority was dismissed. Thereafter, the petitioner filed the revision petition before this Court, which was also dismissed. Thereafter, the petitioner/ JD filed Special Leave Petition before the Hon'ble Supreme Court, in which notice was issued to the opposite party and stay regarding the impugned order was granted. But the aforesaid SLP was dismissed on 13.10.2023, after appearance of the opposite party and possession of the premises in question was directed to be given on or before 31.03.2024, subject to payment of rent and arrears thereof and the petitioner/ JD was directed to file a usual undertaking within a period of two weeks from the date of order before the Registrar of the High Court of Punjab and Haryana at Chandigarh. The review petition filed by the petitioner/ JD before the Hon'ble Supreme Court was dismissed on 06.02.2024. Thereafter the petitioner filed a curative petition on 14.03.2024, which is registered before the Hon'ble Supreme Court at Diary No12156/2024. The curative writ petition was not listed or heard by the Hon'ble Supreme Court till date. The petitioner filed an application dated 28.03.2024 before the Executing Court praying for withholding of issuance of warrant for possession in the execution application No.134/2014 but the said application was dismissed by the Executing Court on 08.04.2024 without taking into consideration the written arguments submitted by the petitioner. So the petitioner has knocked the doors of this Court by way of filing the present revision petition.

3. Learned counsel for the revision petitioner has contended that the pendency of the curative petition filed by the petitioner is the aftermath

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of the result of the review petition, which was dismissed on 13.10.2023, against which the petitioner/ JD availed the remedy of curative petition before the same Court which is still pending. He has contended that the grave injustice has been done while not extending the time of issuance of warrant of possession sought till the final decision of the curative writ petition and the legal remedy availed by the petitioner/ JD would be a futile exercise. In case of acceptance of the curative petition, the JD would suffer immensely by vacating the premises on the issuance of warrant of possession and unnecessary harassment would be caused to him. He has submitted that the impugned order be set aside and necessary order be passed for extending the time of issuance of warrant of possession till final disposal of the curative petition pending before the Hon'ble Supreme Court. In support of his contentions, he has placed reliance upon ***Yakub Abdul Razak Memon Vs. State of Maharashtra through The Secretary, Home Department and others, 2015(4) R.C.R (Criminal) 451.***

4. I have heard learned counsel for the petitioner and has gone through the relevant record.

5. This fact is not disputed that the rent petition filed by the respondent/ landlord was accepted against the petitioner/ tenant. The appeal preferred before the Appellate Authority as well as before this Court and Special Leave Petition and Review Petition filed before the Hon'ble Supreme Court were also dismissed. So, after availing the remedy upto the Hon'ble Supreme Court of India, the Execution Petition has been filed after dismissal of the Special Leave Petition as well as Review Petition by

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Hon'ble Supreme Court. Again this fact is not disputed that an undertaking was given before the Hon'ble Supreme Court to vacate the premises in question upto 31.03.2024 and to make payment of mesne profits. The aforesaid undertaking regarding vacating of the premises in question upto 31.03.2024 has not been honoured.

6. The case law relied upon by learned counsel for the petitioner Yakub Abdul Razak's case (supra) is on distinguishable facts as in that case the death sentence had been imposed upon the petitioner and as the Supreme Court found that his previous curative petition had not been heard as per Supreme Court Rules, 2013, the stay against the execution of death sentence was granted by the Supreme Court itself and not by any other Court. So, keeping in view the aforesaid facts and circumstances that the petitioner/ tenant has lost the legal battle upto the Hon'ble Supreme Court of India and despite giving of the undertaking before the Hon'ble Supreme Court has not vacated the premises in question. There is no illegality or infirmity in the impugned order and no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

7. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

24.04.2024.

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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No