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

% **Date of decision: 23rd August, 2024**

+ **CONT.CAS(C) 1331/2024**

SACHHIN SAPRA AND FAMILY HUFPetitioner

Through: **Mr. Rohan Thawani and Ms. Aakriti Vikas, Advs.**

versus

VISHAL MANOCHARespondent

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

CM APPL. 48427/2024 (Ex.)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The petitioner is seeking initiation of contempt proceedings against the respondents under Section 12 read with Section 10 of the Contempt of Courts Act, 1971 for the wilful disobedience and breach of Undertaking given by respondent/tenant recorded on 16.05.2024 by the learned District Judge-03, Patiala House Courts, New Delhi.
4. None appeared on behalf of the respondent/tenant despite sending advance notice.
5. Shorn off unnecessary details, the petitioner has filed a Civil Suit No. 13/2024 against the respondent-tenant for eviction,



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permanent injunction and recovery of damages besides arrears for wrongful use & occupation in respect of the premises in question. It appears that during the pendency of the aforesaid suit, a statement was made on 16.05.2024 by respondent which goes as under:-

“I am the defendant no. 2 in the present matter. I admit that I am a tenant in the rear portion of the ground floor of the property bearing no. B-15, Vasant Marg, Vasant Vihar, New Delhi and the rate of rent is Rs. 91,000/- per month. I have paid rent only for the period upto 12.11.2023 or 14.10.2023. I will confirm this and disclose it before the Court on the next date of hearing. Due to certain issues with the Income Tax Department and due to the illness of my minor son, I could not pay the rent and could not file written statement till now. I undertake not to use the premises for any non-residential purpose.

I will make payment of arrears of rent in July 2024. A lenient view may be taken in view of the fact that I am facing difficulties with the Income Tax Department and that my son is unwell.”

6. Learned counsel for the petitioner has urged that no payment has been made by the respondent pursuant to the aforesaid statement, and therefore, the respondent is in wilful and deliberate breach of the undertaking given in the Court.

7. In the considered opinion of this Court, every breach of an order or undertaking given by a party in the court proceedings would not *ipso facto* result in invoking action in contempt. It is well settled that the contempt proceedings or action in contempt should be resorted to sparingly and in exceptional cases where the contemnor has exhibited some gross, depraved or unconscionable act on his part.

8. Faced with the aforesaid situation, learned counsel for the petitioner urged that learned Trial Court has already issued a notice to the respondent under Order XV-A for striking of his defence and since



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the order dated 16.05.2024 has been passed while disposing of application under Order XXXIX Rules 1 and 2 CPC, the learned Trial Court cannot pass any other directions or to issue coercive process against the respondent for recovery of arrears of rent.

9. *Ex-facie*, the aforesaid statement made by the respondent before the Court would show that he has not only admitted his status of being a tenant in the premises but also rate of rent besides also acknowledging that the rent has only been paid upto 12.11.2023. Evidently, the respondent undertook to make payment of rent in July 2024, which undertaking has not been discharged.

10. In the said backdrop, the learned Trial Court is not powerless and can *suo moto* consider passing appropriate directions in terms of Order XII Rule 6 CPC, or for that matter may pass appropriate directions or coercive measures to enforce the undertaking and as in the instant matter to get amount of rent outstanding recovered under its inherent powers under Section 151 CPC. In other words, the learned Trial Court has ample powers to pass appropriate coercive measures or directions to ensure compliance with such undertakings forming an integral part of its orders/directions.

11. In view of the above, the present petition is disposed of with directions to the learned Trial Court that in case an interim application is moved by the petitioner seeking enforcement of the undertaking given by the respondent in the Court, the learned Trial Court shall issue appropriate coercive process against the respondent for recovery of the arrears of outstanding and/or current rent during the pendency of the matter.



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12. The contempt petition is disposed of accordingly.

DHARMESH SHARMA, J.

AUGUST 23, 2024

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Signature Not Verified

Digitally Signed By: PRAKASH
KUMAR VATS
Signing Date: 27/08.2024
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