

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

+ **RC. REV.No.199/2014**

% **26th November, 2014**

SMT. DRAUPADI DEVI (DECEASED THROUGH LRs) Petitioner
Through: Mr. S. R. Mehta, Advocaet.

Versus

MR. GULSHAN KUMAR ANAND Respondent
Through: Mr. J.S. Bakshi, Advocate.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not? Yes.

VALMIKI J. MEHTA, J (ORAL)

Review Petition No.513/2014

1. The petitioner/tenant by this review petition seeks review of the judgment dated 9.9.2014 by which the rent control revision petition was dismissed.

2. The admitted position which emerges on record is that an SLP was filed by the petitioner against the judgment dated 9.9.2014 and the SLP being SLP no.26848/2014 was dismissed by the Supreme Court vide its order dated 26.9.2014 by making the following observations:-

“ Taken on board.

We find no merit in the special leave petition. It is dismissed accordingly.

However, on a request of learned counsel for the petitioners, time to vacate the premises is extended till 31st March, 2015 subject to petitioners’ filing a usual undertaking within a period of two weeks from today and further subject to the petitioners paying a sum of Rs.27,000/- per month by the 7th day of each month.”

(underlining added)

3. A reading of the aforesaid order shows that there were two aspects in the same. Firstly, the reason given is that there was no merit in the special leave petition. Secondly, the petitioner as per his request for time to vacate the suit premises was directed to file an undertaking and I am informed that petitioner has filed the undertaking to take benefit of the time to vacate the suit premises till 31.3.2015.

4. Learned counsel for the petitioner by placing reliance upon the judgment of the Supreme Court in the case of *Kunhayammed & Ors. Vs. State of Kerala & Anr. (2000) 6 SCC 359* sought to argue that even after dismissal of an SLP, a review petition can be filed. Reliance is also placed by the petitioner upon the judgment of the Supreme Court in the case of *Southern Railway Officers Assn. and Anr. Vs. Union of India and Ors. AIR 2010 SC 1241* to argue that merely because an undertaking is given to

comply with the order cannot mean that an appeal cannot be filed against the judgment.

5. I am forced to observe that there are certain litigants such as the present petitioner/tenant who do not want to understand and give respect to the principle of finality of judgments. Supreme Court in the case of *Gangadhara Palo Vs. The Revenue Divisional Officer and Anr. (2011) 4 SCC 602* has said that the ratio of *Kunhayammed & Ors. (supra)* is that there is no merger of the High Court judgment with the Supreme Court order dismissing the SLP in limine but if the Supreme Court gives even a one line reasoning to dismiss the SLP. I have already reproduced above the order of the Supreme Court which specifically states that there was no merit in the SLP and therefore reasoning has been given by the Supreme Court for dismissing of the SLP. Clearly therefore the ratio of the judgment in the case of *Gangadhara Palo (supra)* will apply and not the ratio of the Supreme Court in the case of *Kunhayammed & Ors. (supra)*.

6. Another reason to be noted against the petitioner is that petitioner is abusing the process of the Court because the petitioner in terms of the order of the Supreme Court on 26.9.2014 has indeed filed the undertaking to take benefit of the time to vacate the tenanted premises and

which aspect is confirmed by counsels for both the parties before this Court. Therefore, the petitioner has really accepted the finality of the order of the Supreme Court and only took time to vacate the suit premises. In such a case, in view of the judgment of the Supreme Court in the case of *Gangadhara Palo (supra)* there is no entitlement to file a review petition and the ratio of the judgment of the Supreme Court in the case of *Southern Railway Officers Assn. and Anr. (supra)* as relied upon by the petitioner cannot be applied.

7. I note that the judgment of the Supreme Court in the case of *Gangadhara Palo (supra)* has been followed and clarified by the Supreme Court in the judgment in the case of *Vinod Kapoor Vs. State of Goa and Ors. (2012) 12 SCC 378* which is relied upon by the respondent, and in which judgment the Supreme Court holds that once an SLP is withdrawn then a fresh SLP cannot be filed against the same judgment after a review petition against the order of the High Court is dismissed by the High Court. In fact Supreme Court in the case of *Vinod Kapoor (supra)* observes that in fact an SLP cannot be filed against the order of the High Court dismissing the review petition.

8. It is high time that to a certain sections of litigants, a very strong message is sent that object of access to legal process is not that litigants are entitled to abuse the legal process. Once the matter has reached finality by reaching the Supreme Court, it is not permissible for litigants such as the petitioner to keep on approaching the Courts more so after the petitioner has taken benefit of the order of dismissal of the SLP by the Supreme Court by filing an undertaking and taking time to vacate the suit premises.

9. In view of the above, the review petition being meritless and an abuse of the process of the law is dismissed with costs of Rs.50,000/-. Costs shall be paid to the counsel for the respondent within a period of four weeks from today failing which the order of payment of costs can be executed.

VALMIKI J. MEHTA, J

NOVEMBER 26, 2014

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