

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

CONTEMPT PETITION(C) NOS.140-144/2011

IN

S.L.P.(C) NOS.27755-27759 OF 2010

M/s Atma Ram Builders P. Ltd. &

..Petitioner

versus

A.K.Tuli & Others

...Respondents

O R D E R

Heard learned counsel for the parties.

Special Leave Petitions were filed in this Court against the judgment of the Delhi High Court dated 14th September, 2010 by which the Delhi High Court had rejected the second appeal filed by the tenant against the decree of eviction.

By our order dated 06th October, 2010, we dismissed the special leave petitions by the following order:

"Taken on Board.

Heard.

We find no merit in the special leave petitions and they are dismissed accordingly. However, we grant six months' time from today to the petitioner to vacate the premises in question on furnishing usual undertaking before this Court within six weeks from today."

From a perusal of the above order, it is evident that the tenant had to vacate the premises in question within six months' from the date of dismissal of the special leave petitions and to furnish usual undertaking within six weeks from that date. It is extremely unfortunate that neither an undertaking was furnished nor did the tenant vacate the premises in question on the expiry of six months, i.e., 06th April, 2011. Instead, frivolous objections were filed in the execution proceedings, and our order was flouted. Hence, these contempt petitions have been filed by the landlord.

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It is deeply regrettable that in our country often litigations between the landlord and tenant are fought up to the stage of the Supreme Court and when the tenant loses in this Court then he starts a second innings through someone claiming to be a co-tenant or as a sub-tenant or in some other capacity and in the second round of litigation the matter remains pending for years and the landlord cannot get possession despite the order of this Court. The time has come that this malpractice must now be stopped effectively.

After our order dated 06th October, 2010, the counsel of the tenant should have advised the tenant to vacate the premises in question like a gentleman before or on the expiry of six months from 06.10.2010 but unfortunately they advised the tenant to put up some other person claiming independent right against the landlord as a sub-tenant and

start a fresh round of litigation to remain in possession. In this manner, our order dated 06th October, 2010 was totally frustrated.

In these contempt proceedings, we had passed the
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following order on 27th April, 2011:

"Very serious allegations have been made in these contempt petitions. By our Order dated 06.10.2010 we had dismissed the Special Leave Petitions of M/s Udham Singh Jain Charitable Trust-the tenant by giving it six months time from that date to vacate the premises in question on furnishing usual undertaking before this Court within six weeks from that date. Despite that Order, the petitioner in the original Special Leave Petitions Nos. 27755-27759 of 2010 has not vacated the premises in question nor did it file any undertaking before this Court. Instead, to frustrate the Order of this Court dated 06.10.2010 it got some persons to file frivolous objections before the executing court. One objector is none else than the son of one of the trustees of the tenant-trust, another objector is one of the trustees claiming to be the sub-tenant.

In our opinion, such conduct is contemptuous and is simply unacceptable. It *prima facie* seems to us that the alleged contemnors are only creating frivolous objections to start a second round of litigation, and frustrate the Order of this Court dated 06.10.2010. We have noted that the tenancy was for 10 years effective from 01.11.1982. Hence, the respondents in these contempt petitions (petitioner in the original Special Leave Petitions Nos. 27755-27759 of 2010 and the objectors) should have handed over peaceful, vacant possession on 01.11.1992, but they have not done so till now.

Issue notice.

Dasti in addition.

List on 10th May, 2011 by which time counter affidavit may be filed. It is made clear that the case will not be adjourned on that day. There are very serious allegations of flouting the Order dated 06.10.2010 passed by this Court. We may be constrained to pass harsher orders on that date if cause shown is not sufficient according to us.

The alleged contemnors shall remain present in the Court on 10th May, 2011.

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The petitioner in these contempt petitions is allowed to implead Archana Sinha, Additional District Judge Central, Delhi. Issue notice to her also. She is directed to remain present in the Court on 10th May, 2011 to explain to this Court how and why she had passed the order dated 23.04.2011 in total defiance of the Order passed by this Court on 06.10.2010. She is also directed to file a personal affidavit before the next date of hearing. She shall also show cause why contempt proceedings be not taken against her and a recommendation be made by this Court for her immediate suspension.

Notice may be served *dasti* to Mr. Ashwani Kumar, Advocate-on-Record for the petitioner in the original Special Leave Petitions Nos. 27755-27759 of 2010.

Copy of this Order shall be given to the alleged contemnors and Archana Sinha, Additional District Judge Central, Delhi, forthwith. "

Today, when the case was taken up for hearing at 11.25 a.m., senior counsels appeared on behalf of the alleged sub-tenants and stated that their clients will vacate the premises. Hence, we directed that possession be handed over to the landlord by 12.30 p.m. today and we directed this case to be put up again before us at 12.30 p.m. today.

In this case, the order of this Court dated 06th October, 2010 has been totally flouted. It appears that the alleged sub-tenant in the execution proceedings raised an objection which was rejected on 01st April, 2011 against which an appeal was filed to the Additional District Judge Archana Sinha who by a detailed order dated 23rd April, 2011, has granted stay of the warrant of possession.

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It seems to us that in this country certain members of the Subordinate Courts do not even care for orders of this Court. When this Court passed an order dated 06th October, 2010 granting six months' time to vacate, the contemnor Archana Sinha, Additional District Judge had no business to pass the order dated 23rd April, 2011 but instead she has stayed the warrants of possession, meaning thereby that she has practically superseded our order and overruled us.

We are constrained to say that a certain section of the subordinate judiciary in this country is bringing the whole judiciary of India into disrepute by passing orders on extraneous considerations. We do not wish to comment on the various allegations which are often made to us about what certain members of the subordinate judiciary are doing, but we do want to say that these kind of malpractices have to be totally weeded out. Such subordinate judiciary Judges are bringing a bad name to the whole institution and must be thrown out of the judiciary.

In this case, the contemnor Archana Sinha had no business to pass the order dated 23rd April, 2011 and it is hereby quashed as totally void.

We further direct the Hon'ble Chief Justice of the Delhi High Court to enquire into the matter and take such disciplinary action against Archana Sinha, Additional District Judge, as the High Court deems fit. Let a copy of this order be sent forthwith to Hon'ble the Chief Justice of the Delhi High Court for appropriate orders on the

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administrative side against Archana Sinha.

We are informed at 12.30 p.m. today that the possession of the property in dispute has now been delivered to the landlord.

In view of this, the contempt notice against the contemnors is discharged.

Mr. Dushyant Dave, learned counsel for the landlord/petitioner stated that the tenant has not paid electricity and other dues which the tenant was liable to pay. For this separate proceedings may be filed by the landlord, which will be decided by the competent court expeditiously.

Let a copy of this order be sent to the Registrar Generals/Registrars of all the High Courts to be placed before their respective Hon'ble the Chief Justices for information and appropriate orders.

The Contempt Petitions are disposed of.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
MAY 10, 2011

.....J.
[GYAN SUDHA MISRA]

