

CS No. 1162/17

Sheetal Khurana Vs. Monica Mahajan

14.09.2022

Present: Ld. Counsel Sh. Himanshu Pathak for the plaintiff along with plaintiff along with the plaintiff and plaintiff's father.

Ld. Counsel Ms. Astha Kaushal for the defendant.

One application has been moved by the defendant seeking extension of time to deposit the balance amount in compliance of orders dated 07.03.2022. Copy of application supplied to Ld. Counsel for the plaintiff who submits that he does not want to file any reply to the application and shall argue on the application forthwith.

Arguments heard.

The only material submission in the application is that the defendant is suffering from certain medical ailments, has no source of income and has not been able to arrange the funds in terms of orders dated 28.10.2021 and that she be given 3 months time to clear the arrears/make payment.

Ld. Counsel for the plaintiff has strongly opposed the application submitting that defendant has been absolutely irregular in making the payment in compliance of orders dated 28.10.2021 which was modified vide orders dated 07.03.2022 as well as in terms of orders dated 03.08.2022. It is submitted that the total outstanding amount as on date due against the defendant in terms of the said orders is/was approximately Rs. 15 lacs and out of the said amount only Rs. 5 lacs has been paid to the plaintiff so far apart from cheque of Rs. 2 lacs which has been handed over today.

Even after the tendering of said cheque the outstanding amount due to the defendant shall be approximately Rs. 8 lacs as on date. Furthermore the defendant has admittedly defaulted in making payment of Rs. 25,000/- by 10th of every month in terms of orders dated 28.10.2021. Neither the defendant has been complying with orders dated 28.10.2021 or 07.03.2022 nor she is making payment though she is in use and occupation of the suit property. It was made clear vide orders dated 03.08.2022 that in case the defendant fails to make/clear the payment the defence of defendant shall be struck off. To show her bonafine the defendant should have cleared the entire arrears or atleast should have made a substantial payment, if not the entire payment in case she is really under financial hardship/difficulty. By not doing so the defendant has failed to show her bonafide and no reasonable justification has come forward for not arranging the funds for making the payment every month as well as for not clearing the arrears in terms of orders dated 03.08.2022. Plaintiff cannot be left at the mercy of the defendant. Accordingly, I am not inclined to grant any further extension of time to the defendant to make the payment. Defence of defendant is accordingly struck off.

At this stage, one application has also been moved on behalf of defendant for placing certain documents on record. Copy supplied. Ld. Counsel for the plaintiff states that he has no objection if the application is allowed. Accordingly the application stands allowed. Documents be taken on record.

Relist the matter for cross-examination of PW1 as well as arguments on the application under Order 6 Rule 12 CPC now on 16.11.2022.

(Gaurav Rao)

**Additional District Judge-03
Patiala House Courts, New Delhi
14.09.2022**