

Civ DJ 12188/16

JASPAL KAUR SETHI Vs. SURINDER SINGH

03.06.2024

Present: Plaintiff Ms. Randeep Anand connected through
VC.

Ms. Yashika Kapoor, Ld. counsel for plaintiff.

Ms. Malti, Ld. proxy counsel for defendant.

Further submissions are made on application of defendant for recalling and setting aside of order dated 10.11.2021.

ORDER

1. Vide this order, this Court shall decide the application of defendant/applicant for recalling and setting aside the order dated 10.11.2021.

2. Arguments have already been heard. Record perused.

3. In said application it is submitted that vide impugned order dated 10.11.2021, the Court closed the defence of the defendant due to delay in payment of rent. It is submitted that defendant/applicant suffered monetary losses in his business and due to said reason, he could not make the payment in time. It is submitted that in case present application is not allowed, defendant/applicant will suffer irreparable injury. Request is made for setting aside the order dated 10.11.2021.

4. Perusal of record shows that plaintiff moved an application u/o 39 Rule 10 CPC and on said application, vide order dated 06.01.2018 applicant/defendant was directed to deposit the rent for current month and one previous month by 10th of every month in the form of cheque in favour of plaintiff in the Court. Perusal of record also shows that liberty of payment of arrear of rent in installment was given to applicant/defendant in view of

his submissions and request made on 06.01.2018.

5. Perusal of record shows that despite abovestated order dated 06.01.2018, applicant/defendant did not pay the rent as per said order and instead of the same, filed review application qua order dated 06.01.2018. Said review application was dismissed vide order dated 16.09.2019 and after that vide impugned order dated 10.11.2021, defence of defendant was struck off for non-compliance of order dated 06.01.2018.

6. Perusal of record shows that despite several opportunities, applicant/defendant did not comply the order dated 06.01.2018 and enjoying the possession of suit property, so no justified ground is made out to allow the present application and accordingly same is dismissed.

Matter be put up for PE for next date of hearing i.e. **08.08.2024**.

**Announced in the open Court
on this 03rd day of June, 2024.**

**(Dharmender Singh)
District Judge-01, (West)
Tis Hazari Courts, Delhi**