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ITEM NO.25

COURT NO.3

SECTION IVB

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)...../2013
CC 9795/2013

(From the judgement and order dated 17/11/2012 in CR No.5166/2011, dated 26/03/2013 in CM No.32111/2012 in CR No.5166/2011 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

SUBHASH KANODIA

Petitioner(s)

VERSUS

GURPIAR SINGH SANGHERA & ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP and office report)

Date: 07/05/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Petitioner(s)

Mr. Dinesh Verma, Adv.
Mr. Subhasish Bhowmick, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

Delay condoned.

Having given instruction to his advocate not to press the revision filed against the order of the Rent Controller, who declined to grant leave to respondent No.3 to defend the petition filed by respondent No.1 under Section 13B of the East Punjab (Urban Rent Restriction) Act, 1949, as amended in 2001, the petitioner has filed this petition under Article 136 of the Constitution.

The petitioner claims that his wife (respondent No.3) was inducted as tenant in the suit premises in 2001 by the general power of attorney holder of respondent No.1. Suit for injunction filed by respondent No.3 was decreed by Civil Judge (Jr. Division), Kharar vide ex-parte judgment dated 18.8.2005/15.10.2005.

In the meanwhile, respondent No.1 filed a petition under Section 13-B of the Act for eviction of the petitioner by contending that he was a Non-resident Indian and was entitled to eviction because he wanted to settle in India.

In his reply, the petitioner claimed that the suit premises had been let out to respondent No.3 and not to him. Thereupon, respondent No.1 amended the petition and impleaded respondent No.3 as party.

After impleadment of his wife, the petitioner filed an application for leave to defend. The same was dismissed by the Rent Controller vide order dated 16.7.2011. Similar application filed by respondent No.2 was also dismissed by the Rent Controller.

The petitioner and respondent No.3 challenged order dated 16.12.2011 in CR No.5166/2011. When the matter was taken up for hearing by the learned Single Judge of the High Court, the petitioner's counsel stated that he has the instructions not to press

the petition provided that six months' time is granted to his client to vacate the suit premises. Learned counsel for respondent No.1 gave a counter offer by stating that his client is willing to forego the land if the suit premises vacated on or before 15.2.2013. In view of the statements of the learned counsel, the learned Single Judge directed the parties to file undertakings with a stipulation that in case the petitioner and his wife do not file the undertaking then the revision will be deemed to have been dismissed and if respondent No.1 was not to file an undertaking then the revision petition will be deemed to have been admitted and dispossession of the petitioner and his wife will be treated as stayed.

Soon after passing of the order by the learned Single judge, the petitioner and his wife filed an application for recall of order dated 17.11.2012, which was dismissed by the learned Single Judge vide order dated 26.3.2013.

We have heard learned counsel for the petitioner and are convinced that the special leave petition is thoroughly misconceived and is nothing but an abuse of the process of the Court. The petitioner has neither averred nor filed an affidavit of his advocate that he had not given instructions to the latter not to press the civil revision. Therefore, he cannot wriggle out of the statement made by the counsel, which was relied upon by the High Court for granting two months time for vacating the suit premises.

The special leave petition is, accordingly, dismissed.

However, petitioner is allowed time till 31.07.2013 to vacate the suit premises and hand over possession thereof to the landlord subject to his filing an usual undertaking in this Court within a period of four weeks.

It is made clear that during the intervening period, the petitioner shall not induct any other person in the suit premises in any capacity whatsoever or create third party rights in any manner else he will make himself liable to be punished under the Contempt of Courts Act, 1971.

The Registry is directed to forward a copy of this order to respondent no.1 by registered post at the address mentioned in the memo of the special leave petition.

| (Parveen Kr.Chawla)
| Court Master
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| | (Phoolan Wati Arora)
| | Court Master
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