
(2019) 02 DEL CK 0182

In the Delhi High Court

Case No : Regular Second Appeal No. 185 Of 2017

Faqir Chand & Ors

APPELLANT

Vs

Nisha & Ors

RESPONDENT

Date of Decision : 13-02-2019

Acts Referred:

Citation : (2019) 02 DEL CK 0182

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Rajesh Gupta, Harpreet Singh

Final Decision : Dismissed

Judgement

CM No.6815/2019 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

Review Petition No.58/2019 & CM No.6814/2019 (for condonation of 106 days delay in filing for review)

3. Review of paras 3 to 9 of the order dated 20th September, 2018, though admitting this Second Appeal, but declining to frame substantial questions of law as proposed by the counsel for the appellants/review petitioners, is sought, after withdrawing SLP(C) No.32296/2018 preferred against the said order with liberty to file Review Petition before this Court.

4. The counsel for the appellants/review petitioners, under his signatures, in para 2(i) of the Review Petition has pleaded what transpired in the hearing before the Supreme Court, though not so recorded in the order dated 13th December, 2018 of the Supreme Court.

5. The practise, of Advocates under their signatures pleading what transpired in the Court and which is not reflected in the orders of the Court has but to be

deprecated. The Courts speak only through their orders and what is not contained in the order is not to be attributed to the Court.

6. A reading of the order of the Supreme Court does not show anything as is attributed by the counsel for the appellants/review petitioners. On the contrary, what the order dated 13th December, 2018 of the Supreme Court shows is that no arguments even were addressed by the counsel for the appellants/review petitioners before the Supreme Court and instead, the counsel for the appellants/review petitioners, straightway when the matter was called, prayed for withdrawal of the Special Leave Petition (SLP) with liberty to file Review Petition before this Court and which liberty was granted while dismissing SLP as withdrawn. The order does not record that the prayer for withdrawal was made, after arguments or after some arguments or that the Supreme Court expressed any view, as is attributed, that there was any error apparent on the record and the appropriate remedy was of review and not as had been claimed.

7. Such filing of SLP before the Supreme Court and withdrawal thereof with liberty to file Review Petition is not to be abused, for using such orders to convey to the Court that the Supreme Court desired this Court to consider the review favourably, as is suggested in the Review Petition.

8. Even otherwise, the SLP as well this Review Petition were/have been filed by a different counsel than who appeared before this Court on 20th September, 2018. A bare reading of the Review Petition shows that the appellants/review petitioners have not made out any ground as for review and instead, the 'new counsel' engaged, is seeking a re-hearing. The same is also beyond the domain of review jurisdiction. A litigant, by engaging successive counsels, cannot have umpteen hearings.

9. Having gone through the Review Petition and having heard the counsel for the appellants/review petitioners, no ground for review of the aforesaid paragraphs of the order dated 20th September, 2018 is made out. All that can be observed is that if at the time of hearing of the appeal, the Court feels that any substantial question of law other than that framed in the order dated 20th September, 2018 arises, the order dated 20th September, 2018 would not come in the way.

10. Review is also sought of para 29 of the order dated 20th September, 2018 directing the appellants/review petitioners to deposit a sum of Rs.50,000/- per month in this Court with effect from the month of November, 2018 till the disposal of the appeal, as a condition for grant of stay of dispossession.

11. In the Review Petition, it is not pleaded that the property is not capable of fetching Rs.50,000/- per month.

12. The counsel for the appellants/review petitioners also, inspite of opportunity has not been able to show any such averment.

13. All that the counsel for the appellants/review petitioners pleads is that in paragraph 27 of the order dated 20th September, 2018, it was wrongly recorded

that the appellants/review petitioners, during the pendency of the First Appeal, were directed to deposit rent of Rs.2,500/- per month. It is stated that the direction was for deposit of rent @ Rs.250/- per month.

14. The aforesaid fact, in the absence of any plea of the letting value of the property being not Rs.50,000/- per month, does not entitle the appellants/review petitioners to review of the direction for deposit of mesne profits @ Rs.50,000/- per month and which direction was based, again on what had transpired in the Court on that date and was recorded in the order.

15. No ground for review is made out.

16. Dismissed.