

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Order: 9th February, 2010

CM (M) No. 191/2010

%

09.02.2010

Vivek Gaur

... Petitioner

Through: Ms. Purnima Maheswari, Advocate &
Mr. Alok Gupta, Advocate

Versus

Rajender Kumar Gupta & Ors.

... Respondents

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

ORDER (ORAL)

By this petition, the petitioner has assailed two orders; one dated 7th August, 2009 and second dated 21st November, 2009 passed by the learned ADJ in a pending suit. Vide order dated 7th August, 2009 an application under Order 39 Rule 10 CPC was decided by the learned ADJ and the petitioner a tenant in the premises was directed to deposit rent of the premises at admitted rate of Rs.58,800/- p.m. for the unpaid period (the rent as stated in the lease deed). Vide order dated 21st November, 2009 defence of the petitioner was struck off as defendant (petitioner herein) failed to comply with the order passed by the Court and did not deposit the arrears of rent in terms of the order dated 7th August, 2009 nor continued to deposit the rent every month.

2. The petitioner in response to the application under Order 39 Rule 10 CPC made by the landlord had taken a stand that the petitioner had entered into an oral agreement to sell in respect of the premises and was not liable to pay the rent. He stated that the consideration agreed between the parties was Rs.30 lac and the amount of Rs.3,15,712/-, was paid by the petitioner under lease agreement and was to be treated as earnest money and not security or advance rent and since the landlord refused to execute the sale deed, he (petitioner herein) was not liable to pay the rent and nor liable to vacate the premises. He virtually claimed ownership over the premises without payment of any consideration whatsoever. The trial court in

view of the stand taken by the petitioner instead of directing that the rent be paid to the landlord directed that the rent be deposited in the Court. Even this was not done by the petitioner.

3. It is apparent that the endeavor of the petitioner is to drag the case and prolong his stay in the premises without payment of rent. This petition is another step towards the same direction. This Court inquired from the petitioner if the petitioner was ready to deposit rent as per the terms of lease agreement in this Court as a pre-condition for hearing this petition the petitioner showed unwillingness to deposit any rent in the Court.

4. I find that this petition is a frivolous petition and has been moved just to waste the time of the Court. The petition is liable to be dismissed with costs and is hereby dismissed with costs of Rs.25,000/-. The costs shall be recovered from the petitioner along with the decretal amount by the Executing Court as and when decree is passed and shall be deposited in Delhi High Court Legal Services Committee.

Copy of this order be sent to the lower Court.

February 09, 2010
vn

SHIV NARAYAN DHINGRA, J.