

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

BEFORE THE REGISTRAR SH. ANIL LAXMAN PANSARE

Miscellaneous Application No(s). 1087/2020 IN  
SLP(C)NO.18325-18326/2018

ANIL KUMAR SETHI

Petitioner(s)

VERSUS

ROMESH KUMAR SETHI & ORS.

Respondent(s)

(IA No. 53688/2020 - APPROPRIATE ORDERS/DIRECTIONSIA No. 53691/2020  
- EXEMPTION FROM FILING AFFIDAVIT

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Date : 23-07-2020 These matters were called on for hearing today.

For Petitioner(s)

Mr. Jinendra Jain, AOR

For Respondent(s)

Mr. Ranbir Singh Yadav, AOR

UPON hearing the counsel through Video Conference the  
Court made the following

O R D E R

Perused the proceedings. Heard both sides.

The Hon'ble Court was pleased to pass the following order  
on 20.8.2019-

*"Heard learned counsel for the parties.*

*We are not inclined to interfere with the impugned  
judgment and order. The special leave petitions are  
dismissed.*

*After we had dictated the aforesaid order, learned  
counsel for the parties state that rather than to  
prolong the dispute further, they would like to  
reconcile the difference and settle the matter here  
itself.*

A joint proposal has been made by learned counsel for the parties, on instruction from the parties who are present in Court, that the share of the petitioner in the property being 25% would stand transferred to the three respondents on payment of a sum of Rs.70,00,000/- in full and final settlement of the claim of the petitioner. It is further agreed that out of Rs.70,00,000/-, a sum of Rs.40,00,000/- will be deposited in this Court within 15 days from today and the balance Rs.30,00,000/- will be deposited within a period of 6 months from today. On the deposit of the said amounts, the claim of the petitioner shall stand satisfied.

Since there is a hiatus period between the deposit of the first amount and the second amount, the first amount so deposited will be kept in FDR for a period of 6 months so that it can earn interest for the benefit of the petitioner.

On the deposit of the full amount of Rs.70,00,000/-, the petitioner will hand over vacant and peaceful possession of the portion of the property in his possession to respondent No.2, as agreed. Thereafter, it will be open to the petitioner to forthwith withdraw the amount deposited in this Court.

It is further agreed that any proceedings pending against each other will stand withdrawn. There is, however, some issue of the old documents of respondent No.2 (for which FIR is registered) which according to the said respondent are still in the custody of the petitioner, while the petitioner states that if at all, the said documents would be lying in the portion for which keys have been handed over. This is the matter which the parties will have to resolve themselves. Pending applications stand disposed of."

As could be seen, the petitioner agreed to hand over vacant and peaceful possession of the portion of property in his possession to respondent No.2, as agreed.

Thereafter on 5.3.2020, the Hon'ble Court was pleased to pass the following order -

"The amount of Rs.70,00,000/- has since been deposited and learned counsel for the petitioner states that the petitioner is undertaking that the possession will be

handed over by 31st March, 2020 and the key will be handed over to the learned counsel for the respondents. On verification of the aforesaid fact, the amount of Rs.70,00,000/- (Rupees seventy lakhs) will be released to the petitioner along with accrued interest, if any.

It is pointed out by the learned counsel for the petitioner that the following cases are pending:

1. FIR No.339/2018 PS Faridabad Central
2. CC-29/18 (CJM Faridabad)
3. CS-3745/18 (Civil Judge, Faridabad)
4. CRM-M 20489/18 (P&H Chandigarh)

It is submitted while at serial No.1 is an FIR, the quashing proceedings relating thereto is at serial No.4. It is further submitted that at serial No.2 is a private complaint while serial No.3 is a Civil Suit filed qua the same property for possession and permanent injunction. He prays that these matters may be dealt with by orders of this Court.

We accordingly quash FIR No.339/2018 consequently allow Criminal Miscellaneous No.20489/18. Complaint Case No.29/18 is also quashed by consent while the Civil Suit No.3745/18 will stand disposed as satisfied since the possession is now to be handed over.

The release of the amount and the quash orders will take effect only on the possession being handed over by the petitioner i.e. on or before 31st March, 2020.

List before the Registrar for necessary verification on 31st March, 2020.

Miscellaneous Applications stand disposed of in terms aforesaid."

In compliance to aforesaid order, the petitioner has filed undertaking on affidavit dated 19.3.2020 mentioning therein that the Hon'ble Court had directed petitioner to hand over the possession by handing over the keys of House No.1843 situated at Sector 16, Faridabad to the Ld. counsel for the respondents. It is further mentioned that the keys have been handed over to

Ld. counsel for the respondents, namely, Shri Ranbir Singh Yadav, who had agreed that he has received keys as mentioned in the undertaking.

It is further submitted that Ld. counsel for the petitioner has addressed a letter dated 18.3.2020 to Shri Ranbir Singh Yadav, Advocate for respondent Nos.1 to 3 mentioning therein that his client, Mr. Anil Kumar Sethi has vacated the property under question on 15.3.2020 and has locked the same and has handed over three sets of different keys having three keys in one set for hall, connected rooms and back kitchen, two keys in second set for garage portion and one key for the main gate of the said property.

Thus, according to the petitioner, he has vacated the property under question and has locked it and further keys have been handed over to Ld. counsel for the respondents.

To my mind, the aforesaid act amounts to sufficient compliance of order dated 5.3.2020 to the extent that property under question has been vacated and possession has been handed over by petitioner by handing over keys to Ld. counsel for the respondents. However, since some issues were agitated on previous date, the following order was passed by Registrar's Court on 9.7.2020 -

*"F.D.R. amounting to Rs.40,00,000/- (Rupees forty lacs only) be renewed for a further period of six months from the due date of its maturity.*

*Ld. Counsel for the petitioner submits that in terms of Hon'ble Court's order dated 5.3.2020, the possession and keys have been handed over to Ld. counsel for the respondents.*

Ld. counsel for the respondents submits that his client has instructed him to put it on record that the petitioner has not furnished No Objection for water connection, electricity and house tax. As against Ld. counsel for the petitioner submits that he has furnished No Objection as sought by the respondents. Further, Ld. counsel for the respondents submits that his client has not approached him till date and, therefore, the status of property as to whether it is vacant or not, to say that possession has indeed been handed over by the petitioner to the respondents needs verification. He seeks two weeks' time, as last opportunity, to verify the same. Granted.

Ld. Counsel for the petitioner submits that the possession of first floor was handed over to the respondents sometime in August, 2019. The property under question is the ground floor of the same premises. Therefore, the respondents can easily verify the status of the property. In any case, he submits that once keys have been handed over to the Ld. counsel for the respondents, the issue of handing over possession has been put to rest. The petitioner has delivered possession to the respondents in terms of order dated 5.3.2020 of the Hon'ble Court. Accordingly, he makes request to release the amount of Rs.70,00,000/- (Rupees seventy lacs only).

Since the matter has been placed before this Court for verification, it will be appropriate to get a clear statement from the respondents that possession has been delivered to the respondents. As such, keys have been handed over to Ld. counsel for the respondents and, therefore, its duty of respondents to make a fair statement in respect of delivery of possession of property under question. Ld. counsel has now sought two weeks' time for completing the formality regarding possession. The same has been granted, strictly as last chance, with a clear understanding that if the respondents fail to take appropriate steps, it will be presumed that the possession has been handed over by the petitioner to the respondents by handing over the keys of the property.

Ld. Counsel for the petitioner further submits that vide order dated 20.8.2019, the Hon'ble Court was pleased to direct the Registry to invest entire amount into fixed deposit. However, Registry has invested only Rs.40,00,000/- (Rupees forty lacs only) into fixed deposit, however, Rs.30,00,000/- (rupees thirty lacs only) has not been invested into fixed deposit. He submits that necessary explanation be called from the Registry.

*In view thereof, Registry to explain as to why the entire amount is not invested in terms of directions of the Hon'ble Court.  
List again on 23.7.2020."*

Thus, having gone through the order dated 5.3.2020, it is clear that the petitioner undertook to handover possession of property under question prior to 31.3.2020 and also to handover the keys to Id. counsel for the respondents. His undertaking dated 19.3.2020 read with letter dated 18.3.2020 would make it clear that he has followed the undertaking. According to him he has vacated the property under question and the keys of the rooms as detailed in his undertaking have been handed over to Id. counsel for the respondents. Therefore, the concerned shown by Id. counsel for the respondents on 9.7.2020 as to whether the property is vacant or not has already been answered by the petitioner in his affidavit on undertaking, so also the letter mentioned above.

In any case, it is open to the respondents to open the lock, once keys are handed over to respondents by their counsel. The respondents can take physical possession and make legitimate use of the property under question.

There is, thus, no substance in the submissions made by the Id. counsel for the respondents that it is necessary to verify the status of the property as to whether it is vacant or not. In spite thereof, he was given two weeks' time to verify the status. Today, when the matter was called, Id. counsel appearing for the respondents submitted that he has given no

objection to respondent No.2 to appoint another Advocate and that respondent No.2 has filed an application to appear and argue in person and also filed an application for exemption from filing court fee and attested affidavit. The said application is reported to be defective as per office report. As per office report, the defects have been notified to respondent No.2 through registered post A.D. and e-mail as well.

The aforesaid act, according to Id. Counsel for the petitioner is delaying tactics. I need not go into the issue whether the respondents have adopted delaying tactics. The matter has been placed before Registrar for verification of the fact mentioned in the order dated 5.3.2020, which according to me stands duly verified.

There is another issue raised on 9.7.2020, by the Id. counsel for the respondents. He had submitted that the petitioner has not furnished no objection for water connection, electricity and house tax. As such, Id. Counsel for the petitioner had countered the said submissions by stating that he has furnished no objection as sought by the respondents, however, the said fact needs no comment by this Court, for the simple reason, that the fact which is to be verified is whether possession and keys have been handed over in terms of order dated 5.3.2020 passed by the Hon'ble Court.

As per office report dated 22.7.2020, there is yet another application. Respondent Nos.1 to 3 have filed application for

directions, which is found to be defective. Defects have been communicated to Ld. counsel for the respondents. I have gone through the said application. The respondents have prayed against petitioner to handover the documents and valuable items to the respondents on or before handing over the peaceful possession.

These documents and alleged valuable items are the subject matter of FIR No.339/2018. The said FIR has been quashed by the Hon'ble Court vide order dated 5.3.2020. Further the Hon'ble Court vide order dated 20.8.2019 has been pleased to observe that there is some issue between petitioner and respondent No.2 in respect of old documents for which FIR has been registered. The said issue, according to Court, will have to be resolved by the parties amongst themselves. Thus, the grievance of the respondent No.2 in respect of documents which subject matter of FIR No.339/2018 has already been dealt with and requires no comments by this Court.

As stated earlier, the only fact that requires verification has already been dealt with and stands verified in terms of order dated 5.3.2020. Registry to release the amount of Rs.70,00,000/- alongwith accrued interest, if any, in terms of order dated 5.3.2020.

ANIL LAXMAN PANSARE  
Registrar