

WPMS No. 810 of 2018

With

Review Application No.9380/2021

**Hon'ble Sharad Kumar Sharma, J.**

Mr. B.D. Pande, Advocate for the petitioner.

Mr. D. Barthwal, Advocate for the respondent/review applicant.

On Friday i.e. 29.01.2021 when the Court was rising after completing the Court's proceedings, a mention was made by the learned counsel for the respondent/applicant to the review application that the matter is urgent, for the reason being that the executing court has fixed a date on 01.02.2021. Hence, this Court agreed to take up the matter on Saturday i.e. 30.01.2021. In relation thereto, the appropriate permission as required for the constitution of the Bench on Saturday, since being a holiday, was sought by Hon'ble the Chief Justice, which was granted and the matter was listed for V.C. hearing.

The counsel for the respondent had filed a review application supported with the delay condonation application explaining 17 days delay which has chanced in filing the

application. Since the delay, itself is not being seriously opposed, the same would stand condoned and the review application itself is being taken up on its own merit.

When the case was taken up, in fact, in the review application, various grounds, which were mentioned therein were altogether a personal ground and personal incapacities of the respondent, due to which she has contended that she was unable to communicate with her counsel due to which the judgment was rendered on account of lack of instructions being supplied by the respondent to her counsel, hence, she has submitted that there were various causalities in the families, hence she has sought enlargement of time to vacate the premises.

When the matter was taken up at the notified time i.e. 11:00 a.m., counsel for the petitioner had submitted that he has got no instructions from his client i.e. petitioner/landlord in order to make any statement with regards to the enlargement of time which was prayed to be granted to the respondent/tenant for vacating the premises. Hence, on the request of the

learned counsel for the petitioner, he would submit that he will be completing his instructions. The matter was directed to be posted at 04:00 p.m. on 30.01.2021 and on the revival of the proceedings, the counsel for the petitioner had submitted that based on the instructions, which he has received from the landlord, the landlord has agreed that one and half years time may be granted to the respondent/tenant to vacate the premises subject to the condition, to be imposed by the Court. Excepting those arguments the review application is partly disposed of in the following manner:

The respondent/petitioner would submit an undertaking by way of an affidavit, before the prescribed authority within a period of two weeks from the date of receipt of certified copy of this order giving an undertaking to the effect that she would be vacating the premises and handing over the vacant and peaceful possession of the premises in question to the petitioner landlord within a period of one and half years from today.

She would also submit in the undertaking to the effect that during this

extended period of occupancy of one and half years, the respondent/tenant would pay the rent double the rent which was already paid by her during the pendency of the proceedings before the court below, which would also ensure to be remitted by 10<sup>th</sup> of each month and if in case of default in remittance of the rent, the judgment would be put to execution. The tenant/respondent would also in the undertaking mention that she will not alter or change the nature of the construction of the tenement in question in any manner whatsoever except without a prior written consent from the petitioner landlord and would not further create any sub tenancy during this extended period. It is clarified that the extension of time granted to vacate the premises is subject to the condition that she would not be creating any sub tenancy during this period. Subject to the aforesaid assurance, the review application preferred by the respondent/landlord is disposed of accordingly.

**(Sharad Kumar Sharma, J.)**

30.01.2021