

\$~13

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 24th December, 2019
+ **CM (M) 1827/2019**
Y N GUPTA (DECEASED) THR LR Petitioner
Through: Mr. Rajat Aneja and Ms. Sonali
Chopra, Advocates. (M:9999728767)
versus

M/S M A RAMZANA Respondent
Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

CM APPL. 55600/2019 (exemption)

1. Allowed, subject to all just exceptions. Application is disposed of.

CM (M) 1827/2019

2. Ld. counsel for the Petitioner states that an advance copy had been served on the Respondent. However, none appears for the Respondent.

3. The practice of trial courts adjourning matters repeatedly `FOR ORDERS' and not pronouncing orders, has attained epidemic proportions, as is being seen in several matters.

4. This petition is reflective of the incessant practice of Trial Courts of repeatedly adjourning a matter for orders, after hearing arguments. A perusal of the order sheet of the Appellate Court in this case, which was presided over by two different Id. District & Sessions Judges, shows that since April, 2019, the appeal is being heard and is being adjourned for orders on almost every date. More than 10 hearings have taken place, however, the orders are yet to be pronounced. On each date, either the order-sheet shows that the

matter is listed for orders or that it is part-heard.

5. The submission of Id. counsel for the Petitioner is that on some occasions, even when the matter is not being heard, the order sheet records the matter as being part-heard.

6. The background of the petition is that an eviction petition, under Section 14(1)(e) of the Delhi Rent Control Act, 1958, was filed by the Petitioner/Landlord, who is now represented through legal heirs, in respect of shop bearing No. E-16, Connaught Place, New Delhi -110001. Leave to defend was sought by the Tenant, which was rejected by the Id. Rent Controller (*hereinafter*, "RC") on 3rd August, 2018. Execution of the eviction decree was sought and objections were filed in the said eviction petition. The objections were dismissed by the Id. RC on 22nd March, 2019.

7. The Tenant then filed an appeal before the Rent Control Tribunal (*hereinafter*, "RCT"). Even though the Petitioner-Landlord had preferred a caveat, strangely, neither was notice served upon the caveator nor was the Court informed of the caveat. By order dated 2nd April, 2019, the decree for eviction was stayed by the RCT. The order dated 2nd April, 2019 reads as under:

"Heard.

Issue notice of this appeal on filing of PF.

At this stage, Ld. Counsel for appellant presses his application for stay.

He has filed copy of respondent's eviction petition along with list of documents.

Heard on appellant's application for stay of execution proceedings in the trial court and impugned order dated 22.03.2019 passed in Ex.No.96/2019.

It is submitted by Ld. Counsel for appellant that the Ld. RC has already directed issuance of warrants of

possession of suit premises and fixed 05.04.2019 before Ld. ACJ for appointment of bailiff. In case, the DH succeeds in taking possession of the suit premises, this appeal shall be rendered infructuous. The appellant herein shall suffer irreparable harm and injury, as he has been in exclusive possession of the suit premises since 1951.

Ld. Counsel for the appellant has further submitted that while dismissing the appellant's objections, the Ld. RC erred in observing that the appellant has failed to prove that the appellant is in exclusive possession of the suit premises. Whereas, the landlord/ respondent herein has himself mentioned in his eviction petition about the appellant being in exclusive possession of the suit premises.

Ld. Counsel for appellant has drawn my attention to paras-5 & 9 of the respondent's eviction petition as well as to para-7 of objections under Order XXI Rule 58, 97-103 read with Section 151 CPC.

Reference to paras-5 & 9 of the eviction petition shows that it mentions that the appellant is in exclusive possession of the suit premises and is running the business of selling of carpets, shawls, handicrafts, jewellery etc. This fact is also borne out from para 7 of the objections filed, wherein, it is mentioned that suit premises was taken on rent by Sh. Hazi Mohd. Ramzan.

Ld. Counsel for the appellant further submits that appellant is in exclusive possession of the suit premises since 1951 and shall suffer irreparable loss if, he is dis-possessed without an opportunity of being heard, despite being a necessary party.

In view of the above facts and circumstances and in the light of Section 16 DRC Act, the interest of justice calls for stay of the impugned judgment, as otherwise in case the appellant is evicted from the suit premises, this appeal shall be rendered meaningless. Accordingly, impugned judgment is stayed till the

next date of hearing.

Application for stay is disposed of accordingly.

To come up for 02.05.2019.

Copy of the order be given dasti, as requested.”

8. A perusal of the above order shows that the judgment and eviction decree was stayed by the Id. RCT. Immediately upon the Petitioner learning of the said stay order, the Caveator appeared on 5th April, 2019, before the Court. On the said date, the following order was passed: -

“Sh. Pratap Singh, SJA has given a written explanation regarding not attaching the caveat with the case file.

He is warned to be careful in future.

Heard.

Notice be issued to the appellant/its counsel, returnable on 09.04.2019.

Notice be given dasti, as requested.”

9. The Id. RCT, therefore, acquired knowledge of the fact that the stay order was granted without hearing the Caveator, despite the caveat having been filed. On 9th April, 2019, the Id. RCT passed the following order: -

“Ld. Counsel for the respondent requests for vacation of stay of the impugned judgment granted by this court vide order dated 02.04.2019. She submits that the appeal itself is not maintainable and therefore, the execution of the eviction order passed by the Ld. Trial Court could not have been stayed. Moreso, in the light of caveat having been filed by the respondent herein.

Ld. Counsel for the appellant submits that no notice of any caveat from this court was received. Although, the appellant had received notice of a caveat from the Hon'ble High Court.

At this stage, Ld. Counsel for the respondent has filed tracking report. Tracking report shows that item was delivered on 26.03.2019 at New Delhi, GPO. It does not reflect delivery to the appellant/his advocate.

Be that as it may.

Heard both the sides on the respondent's request for vacation of ex-parte stay granted vide order dated 02.04.2019 and dismissal of the appeal on account of non-maintainability.

To come up for order on 15.04.2019.”

10. On the said date, therefore, it is clear that the parties were heard on the question of vacation of stay and on prayer for dismissal of appeal on the ground of non-maintainability. Orders were to be passed by the Id. RCT on 15th April, 2019.

11. On 15th April, 2019, the appeal was adjourned for orders to 4 pm. Thereafter, no orders were passed and the case was adjourned to 9th May, 2019. The order dated 15th April 2019, reads as under: -

“RCT No.19/19

M/s. M.A.Ramzana vs Y.N.Gupta

14.05.2019

Present : None for appellant.

Ms. Sonali Chopra, Ld. Counsel for the respondent.

Put up for orders at 04:00pm.

.....

Called again at 04:00pm

Present: None for appellant.

Ms. Sonali Chopra, Ld. Counsel for the respondent.

*No time left today as orders are being dictated in Transfer Petitions bearing No. 10/19 titled as **Raymond Lal Patras Vs. DDTA** and 13/19 titled as **Pankaj Oswal Vs. State** and that the undersigned has to Preside over the meeting regarding administrative matters with the Chairpersons of all the Committees*

from 04:30pm onwards.

Put up for orders on 09.05.2019. The date of 02.05.2019 is hereby cancelled.

12. On 9th May, 2019, again, no orders were passed. The Id. RCT recorded as under: -

“None is present on behalf of parties despite calls.

Today the matter was listed for orders. Certain clarifications are required.

To come up for clarifications, if any/orders on 10.05.2019.”

13. The position remained the same on 10th May, 2019. On 16th May, 2019, the order records that the appeal has been heard and the matter is listed for further arguments on 10th July, 2019. The trial court record was summoned.

14. On 10th July, 2019, the arguments of the Landlord were again recorded and the TCR was again summoned by a new District & Sessions Judge presiding the Court. However, despite the counsel being present, an adjournment was sought which was granted. The order reads: -

“Perusal of the previous order sheets of this appeal file reveals that vide order dated 02.04.2019 of the Ld. Predecessor court, the impugned judgment was stayed till the next date of hearing which was fixed for 02.05.2019. But the matter was taken up for 05.04.2019 on filing of the caveat and further, the matter was fixed for 09.04.2019, 15.04.2019, 09.05.2019, 10.05.2019 and 16.05.2019. On 16.05.2019, Ld. Counsel for the parties were also present but there is no such order in the previous order sheets for continuing the stay order which was passed on 02.04.2019 by the Ld. Predecessor Court.

In the interest of justice, Ld. Counsel for the appellant definitely be given an opportunity for further

arguments on this appeal.

Ld. Counsel for the parties shall file written submissions/arguments consisting of not more than three pages on the next date of hearing with advance copies to each other.

To come up for further arguments on 29.07.2019. Till then the impugned judgment and decree is stayed.”

15. Again, on 29th July, 2019, the matter was listed for arguments on 20th September, 2019 and the interim order, staying the impugned judgment and decree, was continued. The order dated 29th July, 2019 reads as under: -

“Ld. Counsel for the respondent has filed written submissions alongwith photocopies of the judgments/reported judgments. Copies given to the Ld. Counsel for the appellant in the court today.

Ld. Counsel for the appellant has stated that he does not want to file written synopsis and he would prefer to argue orally but he seeks some time to go through the contents of the written submissions and also the judgments/reported judgments relied upon by the Ld. Counsel for the respondent in support of her arguments.

On request and in the interest of justice, put up this matter for further arguments on 20.09.2019. Till then the impugned judgment and decree is stayed.”

16. On 20th September, 2019, the following order was passed: -

“Ld. Counsel for the appellant has further argued.

Ld. Counsel for the respondent has filed the fresh written submissions. Copy given to the Ld. Counsel for the appellant.

Ld. Counsel for the respondent has submitted that the written submissions filed today may be considered at the time of final adjudication of this appeal and not the previous written submissions filed by the respondent.

On request, put up this matter for further arguments

on 14.10.2019 at 11:30 am.

Interim order to continue till next date.”

17. On 14th October, 2019, the arguments were stated to be heard in part and the interim order was continued. On the next date, i.e., 25th October, 2019, the matter was adjourned at the request of the Id. counsel for the Appellant/tenant. The last order has been passed by the Id. RCT on 13th December, 2019, on which date the matter has now been listed for further arguments on 9th January, 2020.

18. Without going into the contentions advanced by the Petitioner’s counsel, the above chronology of events shows that despite the matter being repeatedly heard and repeatedly listed for orders on the application for vacation of stay and on maintainability, orders are not being passed by the Id. RCT.

19. It is impermissible for the Court to repeatedly adjourn cases for orders after arguments are heard. Recently in ***Deepti Khara v. Siddharth Khara*** [CM(M) 1637/2019, decided on 18th November, 2019] this Court has held as under: -

“5. A perusal of the order-sheet reveals that the orders are pending since 18th October, 2018, for various reasons, including non-availability of stenographer, no time left as evidence is being recorded, and other pre-occupations.

*6. It is the settled position in law, as per the judgment of the Hon’ble Supreme Court in **Anil Rai v. State of Bihar**, (2001) 7 SCC 318 that once matters are reserved for orders, usually, the same should be pronounced within a time schedule. In **Anil Rai** (*supra*) it has been observed as under:*

“8. The intention of the legislature regarding pronouncement of judgments can

be inferred from the provisions of the Code of Criminal Procedure. Sub-section (1) of Section 353 of the Code provides that the judgment in every trial in any criminal court of original jurisdiction, shall be pronounced in open court immediately after the conclusion of the trial or on some subsequent time for which due notice shall be given to the parties or their pleaders. The words “some subsequent time” mentioned in Section 353 contemplate the passing of the judgment without undue delay, as delay in the pronouncement of judgment is opposed to the principle of law. Such subsequent time can at the most be stretched to a period of six weeks and not beyond that time in any case. The pronouncement of judgments in the civil case should not be permitted to go beyond two months.”

7. The Hon'ble Supreme Court in **Anil Rai (supra)** has also passed certain guidelines regarding pronouncement of judgments. The same are reproduced below:

(i) *The Chief Justices of the High Courts may issue appropriate directions to the Registry that in a case where the judgment is reserved and is pronounced later, a column be added in the judgment where, on the first page, after the cause-title, date of reserving the judgment and date of pronouncing it be separately mentioned by the Court Officer concerned.*

(ii) *That Chief Justices of the High Courts, on their administrative side, should direct the Court Officers/Readers of the various Benches in the High Courts to furnish every month the list of cases in the matters where*

the judgments reserved are not pronounced within the period of that month.

(iii) On noticing that after conclusion of the arguments the judgment is not pronounced within a period of two months, the Chief Justice concerned shall draw the attention of the Bench concerned to the pending matter. The Chief Justice may also see the desirability of circulating the statement of such cases in which the judgments have not been pronounced within a period of six weeks from the date of conclusion of the arguments amongst the Judges of the High Court for their information. Such communication be conveyed as confidential and in a sealed cover.

(iv) Where a judgment is not pronounced within three months from the date of reserving it, any of the parties in the case is permitted to file an application in the High Court with a prayer for early judgment. Such application, as and when filed, shall be listed before the Bench concerned within two days excluding the intervening holidays.

(v) If the judgment, for any reason, is not pronounced within a period of six months, any of the parties of the said lis shall be entitled to move an application before the Chief Justice of the High Court with a prayer to withdraw the said case and to make it over to any other Bench for fresh arguments. It is open to the Chief Justice to grant the said prayer or to pass any other order as he deems fit in the circumstances.

8. The Civil Procedure Code, 1908, prescribes thirty days as the time in which a judgment should be pronounced. Order XX Rule 1 of the CPC reads as

under:

“1. Judgment when pronounced. — [(1) The Court, after the case has been heard, shall pronounce judgment in an open Court, either at once, or as soon thereafter as may be practicable and when the judgment is to be pronounced on some future day, the Court shall fix a day for that purpose, of which due notice shall be given to the parties or their pleaders:

Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case was concluded, and due notice of the day so fixed shall be given to the parties or their pleaders.]”

9. While this Court is conscious of the fact that there are pressures on the Trial Courts, non-pronouncement of orders for more than a year cannot be held to be justified. It has been observed in several matters that trial courts keep matters `FOR ORDERS` for months together and sometimes orders are not pronounced for even 2-3 years. Thereafter the judicial officer is transferred or posted in some other jurisdiction and the matter has to be reargued. Such a practice puts enormous burden on the system and on litigants/lawyers. The usual practice ought to be to pronounce orders within the time schedule laid down in the CPC as also the various judgements of the

Supreme Court. In civil cases maximum period of two months can be taken for pronouncing orders, unless there are exceptional cases or there are very complex issues that are involved.”

20. The repeated adjourning of matters for orders reflects extremely poorly on the Court system. Litigants would lose faith if orders are not passed by the Court after arguments are heard. Such a practice cannot be permitted. Once arguments are heard, the Court has an obligation to pass orders within a reasonable time. Repeated hearing of arguments also increases the litigation costs for litigants, as they have to incur expenses for legal representation, etc., Such a practice would also make access to justice unaffordable.

21. In view of the submissions made and the facts narrated hereinabove, it is directed that the Id. District & Sessions Judge would now conclude the hearing on 9th January, 2020 – the date fixed and pass orders within one week thereafter. A copy of this order be communicated to the District & Sessions Judge in RCT No.19/19 titled *M/s M.A. Ramzana v. Y.N.Gupta*, by the Registry.

22. The petition and all pending applications are disposed of in the above terms. Copy of the order be given *dasti* under signature of the Court Master.

**PRATHIBA M. SINGH
JUDGE**

DECEMBER 24, 2019
dk/MR