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Mohan Singh Vs. Texmaco and anr.

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SooperKanoon Citation : sooperkanoon.com/712565

Court : Delhi

Decided On : Nov-17-2006

Reported in : 2007(93)DRJ264

Judge : S.N. Aggarwal, J.

Acts : Companies Act, 1956 - Sections 630; Code of Criminal Procedure (CrPC) - Sections 397

Appeal No. : W.P. (Crl.) 2403/2006

Appellant : Mohan Singh

Respondent : Texmaco and anr.

Advocate for Def. : Sidharth Luthra,; Rajneesh Chopra,; Vijender Kumar, Adv

Advocate for Pet/Ap. : R.K. Tushir an; Satish Kumar, Advs

Judgement :

S.N. Aggarwal, J.

Crl. M.A. No. 11429/2006 (Exemption)

Exemption is granted subject to all just exceptions.

WP (Crl.) No. 2403/2006 & Crl. M (B) No. 1824/2006

1. The petitioner has filed this writ petition seeking to set aside the order dated 04.08.2005 passed by the learned ACMM, Karkardooma Courts, Delhi and order dated 03.10.2006 passed by Ms. Reena Singh Nag, Additional Sessions Judge, Karkardooma Courts, Delhi.

2. Notice. Mr. Rajneesh Chopra, Advocate accepts notice of this petition on behalf of respondent No. 1. Ms. Rajdipa Behura, Advocate accepts notice of this petition on behalf of respondent No. 2.

3. Arguments have been heard and this writ petition can be disposed of at admission stage itself.

4. The petitioner is aggrieved by the directions given to him by the court below to vacate the company's accommodation bearing quarter No. 13, New Birla Lines, Kamla Nagar, Delhi alloted to him by virtue of his employment with the respondent company in 1971. The petitioner admittedly retired from the service of the company on 16-05.1989. He is withholding the company's accommodation unlawfully for over 18 years. Since the petitioner did not vacate the company's accommodation, respondent No. 1 filed a complaint under Section 630 of the Companies Act, 1956 against him and sought his eviction from the aforementioned accommodation in his possession. The petitioner was ordered to vacate the aforesaid accommodation vide order dated 04.08.2005 passed by the learned ACMM, Karkardooma Courts, Delhi in the complaint case.under Section 630 of the Companies Act. Aggrieved therefrom the petitioner preferred a revision petition under Section 397 Cr. PC which was heard and decided by Ms. Reena Singh Nag, Additional Sessions Judge, Karkardooma Courts, Delhi vide judgment dated 03.10.2006. The relevant portion of the impugned judgment dated 03.10.2006 is reproduced here-in-below:

The revisionist has retired in 1989 and now we are in 2006. So after he has ceased to be employee of the respondent company, he has been able to retain the company house for more than 17 years and this conduct of the appellant shows that he is clever and mischievous person. He has no respect for rule of law as he did not hand over the possession of the premises after ceasing to be employee of respondent company. He had gone to the extent of levelling serious allegations

against the learned trial court.

So, I find that the present revision is hopelessly time barred and has been filed with the ulterior motive of retaining the respondent company's accommodation on one pretext or another. The revision is dismissed. There being violation of order of learned trial court to vacate the premises before 15.01.2006, the second part of order of trial court is now operational. Revisionist be taken into custody to serve the sentence imposed by the trial court as there are no mitigating circumstances in view of his conduct to modify the sentence to lesser period. In all fairness, the revisionist family is given one week's time to vacate the premises uptill 10.10.2006. Thereafter, respondent company is at liberty to take over the possession of the company's property with the aid of the local police of the jurisdiction in which the impugned premises is situated. SHO concerned shall render assistance to the respondent's company for getting the premises vacated as per law.

5. It may be seen from the above that the petitioner was taken into custody to serve the sentence awarded against him by the trial court because he did not comply with the directions of the court below to handover the vacant and peaceful possession of the company's accommodation to respondent No. 1 company before 15.01.2006. The petitioner was sentenced to simple imprisonment for two years for violation of the directions of the court order dated 04.08.2005. The petitioner is in custody lodged in Tihar Jail for last about 15 days since 03.10.2006. The learned Counsel appearing on behalf of the petitioner requests that the petitioner may be granted three months time for vacating the company's accommodation.

6. The request for time made on behalf of the petitioner is opposed on behalf of respondent No. 1. It is contended by the learned Counsel appearing on behalf of respondent No. 1 that the petitioner is not entitled to any indulgence for any further extension of time for vacating the company's accommodation in view of his past conduct.

7. Having regard to the facts and circumstances of the case and also the submissions made by the learned Counsel for the parties, the petitioner is granted

three months time in the interest of justice for vacating the company's accommodation subject to his furnishing an undertaking in the form of an affidavit to the satisfaction of the Registrar General of this Court within three days from today that he shall handover the vacant and peaceful possession of the aforementioned company's accommodation to respondent No. 1 on or before 17,01.2007 and this is subject to further condition that the petitioner shall pay all the outstanding including license fee and other incidental charges, if any, for which also an undertaking should be filed within three days. The petitioner is ordered to be released from Jail forthwith. In the event of default on the part of the petitioner in furnishing an undertaking within three days, as directed above, the petitioner be taken into custody to serve the remaining sentence as per judgment of the court below.

8. In view of the above, this writ petition is disposed of.

9. A copy of this order be sent to the concerned Jail Superintendent for information and necessary compliance.

10. Dasti.

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