

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA NO. 227/2010**
% **Judgment delivered on 29th April, 2011**

FERTILIZERS & CHEMICALS TRAVANCORE LTD. Appellant

Through: Mr. Sandeep Sethi, Sr. Advocate with
Mr. P. Banerjee, Advocate

Versus

MR. UDAYAN SINHA & OTHERS Respondents

Through: Mr. Abhinav Vasisht, Sr. Adv. with Mr.
Naveen Kr.Choudhary, Mr. Sumit Singh Benipal,
Advocates

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI

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

G.S. SISTANI, J.

1. The present appeal has been filed by the appellant under section 96 of the Code of Civil Procedure (hereinafter referred to as CPC) against the preliminary judgment and decree dated 16.03.2010 passed by the learned trial court allowing the application of the respondent under Order XII Rule 6 CPC and decreeing the suit in favour of the respondents.
2. The brief facts necessary to be noticed for the disposal of the present appeal are that Sh. Nidhi Dev Narayan Sinha, the father of respondents no. 3 to 6 had let out to the appellant the suit premises bearing no. 74, Link Road, Lajpat Nagar, New Delhi comprising of a

plot of land measuring 966 sq yards or thereabout, and building constructed thereupon comprising of ground floor, first floor and second floor with servant quarter and garage etc. (herein referred to as "suit premises") with effect from 26.04.1968 and the lease was extended from time to time. The lease expired on 31.08.2000. On 29.9.2000, a fresh unregistered lease deed was executed between the parties w.e.f. 1.09.2000 for a period of five years with a renewal clause for further period of five years on negotiable terms acceptable to both the parties. Respondents No. 3 to 6 being legal heirs of Sh. Nidhi Dev Sinha have inherited the suit premises in equal shares and Mrs. Tarkeshwari Sinha, wife of late Sh. Nidhi Dev Narayan Sinha and mother of respondents no. 3 to 6 has also died intestate on 14.08.07 leaving behind respondents no. 3 to 6 as her legal heirs who had inherited her share in the suit premises in equal share. It is an admitted fact that no registered lease deed was executed between the parties. Since despite service of legal notice dated 16.01.2008 terminating the tenancy, the appellant failed to vacate the suit premises, the respondents were compelled to file a civil suit for recovery of possession and use/occupation charges/mesne profits with interest.

3. The defendant, appellant herein, filed their written statement on 02.06.2008 wherein the appellant has admitted the existence of landlord- tenant relationship, the appellant has also admitted that no registered lease deed was executed between the appellant and respondents. The receipt of notice dated 16.01.2008 has also been

admitted by the appellant. It is the case of the appellant that the lease cannot be terminated by the respondent; that the termination of lease was invalid and that the respondent, by acceptance of rent, has extended the lease for a further period of five years.

4. Based upon the admission of the appellant in their written statement, respondents filed an application under Order XII Rule 6 which was allowed by the learned trial court and the suit was decreed against the appellant and directing them to hand over the physical vacant possession of the suit premises to the respondents. By the present appeal, the appellant has assailed the impugned judgment and decree dated 16.03.2010.
5. The counsel for appellant has contended that the impugned judgment and decree is contrary to facts and law and that the trial court has failed to appreciate that no material admissions have been made by the appellant which would entitle the respondents to a decree on admissions.
6. It is strongly contended by the senior counsel for appellant that the learned trial court has lost sight of the fact that various serious and important questions of law and facts were raised by the appellant-defendant in their written statement which would require a full fledged trial. It is contended that the issues of fact raised require leading of evidence as there is documentary evidence to prove the averments and that a decree cannot be passed under the provisions of Order XII Rule 6 of the Code of Civil Procedure. The counsel next contends that a decree under Order XII Rule 6 CPC can only be

passed if the admissions are unambiguous, unequivocal and absolute and merely because there has been an admission of landlord-tenant relationship or the receipt of notice of termination, a decree under order XII Rule 6 CPC cannot be passed when several triable issues are raised by the parties which require adducing of evidence. Reliance has been placed on ***Puran Chand Packaging Industrial Pvt. Ltd. v. Sona Devi*** reported in 154 (2008) DLT 111(DB) and more particularly at paras 11 and 12 which read as under:

“**11.** Though, *prima facie*, the submission of the appellant/defendant may be correct but waiver of notice is a question of fact which a party should be permitted to prove. Acceptance of rent could not be treated as waiver of notice as a matter of course so as to warrant a passing of a judgment and decree under Order 12 Rule 6 of the CPC. If it is a question of fact which goes to the root of the matter as in the present case it has to be then decided after parties are given time to adduce evidence. This is the error which has occurred in the impugned judgment. By making observations that the acceptance of rent by the respondents/defendants does not tantamount to the waiver of the notice of termination of tenancy, the learned Single Judge has gone into merits of the plea. Further it has been observed that not only the original period of tenancy of 35 months has come to an end but even the extended period of 35 months in which the party could have exercised its option to continue on increase of rent by 30% has also come to an end by efflux of time and therefore, he must vacate. These factors in our consideration are extraneous which ought not have been considered by the learned Single Judge in deciding an application under Order 12 Rule 6 of the CPC.

12. Decision on the above plea could not be attributed to be as an admission on the part of the appellant/defendant rather it is in the nature of an adjudication of the plea raised by either of the parties on merits. In addition to this the appellant/defendant had also raised the plea with regard to the fact that

under the agreement the respondent was under an obligation to provide electricity of 120 HP load power while he has only provided electricity to the extent of 65 HP on account of which the premises could not be gainfully utilized. Keeping in view the aforesaid discussion, we are of the considered opinion that so far as the decree of possession, which has been passed in the instant case on the purported admission to have been made by the appellant/defendant, is concerned, was not based on unequivocal, unambiguous admission. There were objections raised which are question of fact which go to the root of the matter. Therefore, the appeal is allowed and impugned judgment and decree dated 4th July, 2000 is set aside and the matter is remanded back to the learned Single Judge to be proceeded further in accordance with law.”

7. It is further contended by counsel for appellant that although vide notice dated 04.05.2005, Smt. Tarakeshwari Sinha expressed her inability to extend the lease deed but still the respondents continued to accept the rent from the appellant for a further period of three years which is a significant period of time. It is the contention of the counsel that such acceptance of rent has resulted in both waiver/withdrawal of notice as well as the extension of lease for a further period of five years i.e. till 31.08.2010 and as such the suit for ejectment has been filed by the respondents only in April 2008 while the lease was still subsisting. The counsel further states that the learned trial court has made an erroneous finding that the appellant had admitted that he has not paid rent after November 2007 and has drawn the attention of the court to reply dated 28.01.2008 wherein the appellant has clearly stated that until the details of bank account are furnished to the appellant, it would continue to pay rent as previously paid.

8. The counsel for appellant next submits that merely because the lease deed dated 29.09.2000 is unregistered, it cannot be said that it cannot be looked into. Relying upon **Abdul Hameed and others v. Charanjit Lal Mehra** reported at 74 (1998) DLT 476, the counsel further submitted that where a compulsorily registrable agreement is not registered but has been acted upon, it is binding upon the parties though the agreement is inadmissible in evidence. A reliance has further been placed upon **Deepak Chopra HUF v. Raj Kumar Adhupia** reported in 103(2003) DLT 499 and **Saket Cultural Club (Regd) v. Oriental Bank of Commerce** reported in 98(2002) DLT 20.
9. Challenging the validity of the notice dated 16.01.2008; the counsel argued that section 106 of the Transfer of Property Act is subservient to the lease deed between the parties and where the lease deed explicitly provides a specific period of notice, section 106 of Transfer of Property Act does not apply. In the present case, the lease deed dated 29.09.2000 specifically provides for a three months notice and that notice dated 16.01.2008 being a fifteen days' notice is illegal and the tenancy has not been validly terminated. It is contended that the learned trial court has wrongly held that the tenancy is legally and validly terminated.
10. Lastly, it is contended by counsel for appellant that the trial court has proceeded on an incorrect view that defence of the appellant is based on renewal of the lease deed whereas the appellant-defendant has set up a case of extension of lease and not

renewal thereof. It is further submitted that the appellant has duly exercised the option of extension of lease invoking clause 8 of the lease deed dated 29.09.2000 and thus no fresh lease deed was required to be executed. Substantiating the aforementioned argument, the counsel has placed reliance on ***State of UP v. Lalji Tandon*** reported in (2004)¹ SCC 1 wherein the Apex Court has dealt with the distinction between extension of lease and its renewal thereof. The relevant para of the aforesaid judgment is reproduced as under;

“**13.** In India, a lease may be in perpetuity. Neither the Transfer of Property Act nor the general law abhors a lease in perpetuity. (*Mulla on the Transfer of Property Act*, 9th Edn., 1999, p. 1011.) Where a covenant for renewal exists, its exercise is, of course, a unilateral act of the lessee, and the consent of the lessor is unnecessary. (*Baker v. Merckel*³, also Mulla, *ibid.*, p. 1204.) Where the principal lease executed between the parties containing a covenant for renewal, is renewed in accordance with the said covenant, whether the renewed lease shall also contain similar clause for renewal depends on the facts and circumstances of each case, regard being had to the intention of the parties as displayed in the original covenant for renewal and the surrounding circumstances. There is a difference between an *extension of lease* in accordance with the covenant in that regard contained in the principal lease and *renewal of lease*, again in accordance with the covenant for renewal contained in the original lease. In the case of extension it is not necessary to have a fresh deed of lease executed, as the extension of lease for the term agreed upon shall be a necessary consequence of the clause for extension. However, option for renewal consistently with the covenant for renewal has to be exercised consistently with the terms thereof and, if exercised, a fresh deed of lease shall have to be executed between the parties. Failing the execution of a fresh deed of lease, another lease for a fixed term shall not come into existence though the principal lease in spite of the expiry of the term thereof may continue by holding over for year by year or month by month, as the case may be.”

11. The counsel for respondent submits that there is no infirmity in the order of the learned trial court in view of the fact that categorical admissions have been made by the appellant in its written statement and that no tenable defence has been raised by the appellant-defendant before the trial court.
12. The counsel for respondents submits that the appellant has duly admitted the existence of jural relationship of landlord and tenant between the respondent and the appellant, the rate of rent as well as the fact that the lease deed was unregistered.
13. Mr. Vasisht submits that appellant in its written statement, has duly acknowledged the receipt of legal notice dated 16.01.2008 terminating the tenancy served upon it by the respondent and has also replied to the said notice vide its letter dated 28.01.2008. Admittedly, no fresh lease deed has been executed after expiry of lease period on 31.08.2005.
14. The counsel for respondent next submits that the main thrust of the arguments of the appellant is that the respondent has been accepting the rent of the suit premises from the appellant despite the service of notice dated 04.05.2005 and such acceptance amount to waiver of the said notice and a further extension of the lease deed for five years. Refuting the aforesaid contention of counsel for appellant and relying upon the case of **Singer India Ltd. v. Amita Gupta** reported at 88(2000) DLT 186 (DB), counsel for respondent submits that mere acceptance of rent does not amount to extension

of lease. The relevant para of the abovementioned judgment is reproduced as under:

“7. If the contention of the appellant is accepted, the mandate contained in Section 107 of the TP Act is clearly violated. The effect would be that even if, as per Section 107 of the TP Act, the lease of period exceeding one year (three years in this case), can be made only by a registered instrument, Section 53-A of the TP Act would create a lease of three years period and give benefit/protection to the appellant. Can Section 53-A of the TP Act be construed in a manner which would negate the provisions of Section 107 of the TP Act? Section 107 of the TP Act states the manner in which lease of immovable property from year to year or for term exceeding one year, etc. is to be created. When Legislature has intended a particular act to be done in a particular manner it has to be done in that manner or not at all. Therefore, no such interpretation to Section 53-A of the TP Act can be given which nullifies the condition prescribed by Section 107 of the TP Act. Section 53-A and Section 107 are to be read harmoniously so that both the provisions are given their proper effect. For this purpose, one will have to read down the provisions of Section 53-A to exclude such types of situations (like the present one), which would otherwise have the effect of nullifying the provisions of Section 107 of the TP Act. Reading in this manner, effect of offering enhanced rent after the initial expiry of the lease period, would only be to legitimize the possession. Otherwise, after the expiry of initial period of lease, appellant would have become unauthorized occupant of the demised premises. From that, however, it would not follow that, appellant acquires right to stay in the leased premises for another period of three years. This three years period can be available only if the lease is evidenced by written instrument which is duly stamped and registered and not otherwise. Therefore, in such a case tenancy would become month to month tenancy so long as the lessee enhances rent and lessor accepts the same. However, lessor shall have right to terminate such a tenancy in accordance with the provisions of Section 106 of the TP Act treating it as lease of immovable property from month to month.”

15. The counsel for respondent next contended that the lease deed admittedly was an unregistered lease deed and as per section

107 of the Transfer of Property Act, 1882 it was a month to month tenancy which can be validly terminated by a 15 days' legal notice which in the present case, is the legal notice dated 16.01.2008 which has been duly served upon the appellant. It is further contended by the counsel that the terms of an unregistered lease deed cannot be looked into for the purpose of enforcing a right flowing therefrom. The counsel has placed reliance on **Modern Food Industries (India) Ltd. v. I.K. Malik and Others** reported at 98 (2002) DLT 593 (DB) and more particularly at paras 11 and 12 which reads as under:

“11. After hearing Counsel for the parties and perusing the record, we are of the considered view that the clauses of the lease deed or renewal of deed dated 3.7.1992 cannot be looked into for want of registration. If a document is inadmissible for non-registration, all its terms are inadmissible including the one dealing with the landlord's permission for the renewal of the lease and the increase of the rent. The letter dated 3rd July, 1992 cannot be dis-associated from the initial lease of 1972 purported to have been executed between the erstwhile landlord and the appellant containing the terms and conditions of the tenancy. We are told at the Bar that even the initial lease was not registered, therefore, the contention of Mr. Sudhanshu Batra, Counsel for the respondents that the terms as stipulated in letter dated 3rd July, 1992 cannot be looked into for want of registration appears to be correct. Fazal Ali, J. in **Sachindra Mohan Ghose v. Ramjash Agarwalla**, AIR 1932 Patna 97, observed that if a decree purporting to create a lease is inadmissible in evidence for want of registration, none of the terms of the lease can be admitted in evidence and that to use a document for the purpose of proving an important clause in the lease is not using it as a collateral purpose.

12. Admittedly the letters dated 1st June, 1992 and 3rd July, 1992 constitute a lease or at least an agreement to renew the lease falling within the provisions of Section 2(7) of the Indian Registration Act, since the agreement to renew the lease by virtue of these two letters in

writing and these having not been registered, no right can be enforced by the appellant on the basis of these two letters. Since the lease in question as per appellant's own showing was for a period of more than one year consequently the provision of Section 107 of the Transfer of Property Act becomes applicable. The terms of unregistered lease cannot be looked into for the purpose of enforcing a right flowing therefrom."

16. I have heard the counsel for the parties and have also perused the entire material placed on record. The contentions of counsel for appellant can be summarised as under:

- For a judgement under order XII Rule 6, admissions must be unambiguous and unqualified.
- Various triable issues have been raised by the appellant in its written statement which cannot be decided under Order XII Rule 6 CPC.
- Though lease deed dated 29.09.2000 is unregistered, it is binding upon the parties though inadmissible in evidence.
- The respondent, by his act of acceptance of enhanced rent, has extended the lease deed for a further period of five years.
- The legal notice dated 16.01.2008 is invalid and the tenancy has not been validly terminated.

17. In a nutshell, the contentions of counsel for respondent are as under:

- There is no infirmity in the judgment of the trial court as there are categorical admissions of landlord- tenant relationship, rate of rent and receipt of notice dated 16.01.2008 by the appellant in its written statement.

- The lease deed is admittedly unregistered and therefore, tenancy was from month to month basis and the terms of an unregistered lease deed cannot be looked into.
- Mere acceptance of rent does not amount to extension of the lease period.

18. Order XII, Rule 6 of the Code of Civil Procedure reads as under:

“XII (6) **Judgment on admissions-** (1) where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of nay party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1), a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.”

19. It is well settled that the object of Order XII Rule 6 CPC is to enable a party to obtain speedy judgement at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled to. In **Uttam Singh Duggal & Co. Ltd. v. Union Bank of India** reported at (2000)7 SCC 120, the Apex Court in para 12 observed as under:

“**12.** As to the object of Order 12 Rule 6, we need not say anything more than what the legislature itself has said when the said provision came to be amended. In the Objects and Reasons set out while amending the said Rule, it is stated that “where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled”. We should not unduly narrow down

the meaning of this Rule as the object is to enable a party to obtain speedy judgment. Where the other party has made a plain admission entitling the former to succeed, it should apply and also wherever there is a clear admission of facts in the face of which it is impossible for the party making such admission to succeed.”

20. It was observed in the case of **Rajiv Sharma and Another v. Rajiv Gupta** reported at (2004) 72 DRJ 540 that the purpose of Order XII Rule 6 of the CPC is to enable the party to obtain speedy justice to the extent of relevant admission, which according to the admission, if other party is entitled for. Admission on which judgment can be claimed must be clear and unequivocal. In the case of **Ms. Rohini v. RB Singh** reported at 155 (2008) DLT 440, it has been held “it is trite to say that in order to obtain judgment on admission, the admissions must be clear and unequivocal. In the matter of landlord and tenant there are only three aspects which are required to be examined – (i) Relationship of landlord and tenant; (ii) expiry of tenancy by efflux of time or determination of valid notice to quit; and (iii) the rent of the premises being more than Rs 3500/- per month, in view of the Act.”
21. Reading the provisions of Order XII Rule 6 would show that a decree can be passed either on admission of facts or on question of law. Almost similar question arose for consideration in **I.T.D.C Ltd. v. M/s Chander Pal Sood & Sons** reported in 84 (2000) DLT 337 before a Division bench of this Court. In view of the fact of the admission as to the relationship of landlord and tenant, the service of notice terminating the tenancy, the tenant was required to vacate

the premises by the end of the tenancy and the fact that the tenancy was month to month basis the court came to the conclusion that nothing survives in the defence of the tenant and a decree of possession could be passed on admitted facts. The other pleas raised by the defendants in the written statement are held to be of no relevance. The relevant para of the aforesaid judgment reads as under:

“18. It may be recalled that in the written statement filed by the appellant relationship of landlord and tenant was admitted; service of notice dated 3rd March, 1998 from the respondent terminating the tenancy of the appellant/tenant requiring it to vacate the premises by the end of the tenancy in the month of March, 1998 was also admitted. In the face of these admissions, and of the fact that the tenancy of the appellant was on month-to-month basis nothing else survived in the defence of the appellant as decree for possession could be passed on these admitted facts. Other pleas raised in the written statement are really not relevant and in our considered view clear and unequivocal admissions noticed above are enough to decree the suit for possession of the respondent/plaintiff in respect of the said property. Only a decree of Rs. 5,000 for the month of April, 1998 with proportionate costs was passed by the learned Trial Court. Under the circumstances, finding recorded by the learned Trial Court are valid and in accordance with and do not call for any interference.”

22. Applying the settled position of law to the facts of this case and on reading of the written statement filed by the appellant defendant herein would show that the appellant had admitted that respondents herein are the owners/landlords of the suit premises let out to the appellant and the rate of rent has also not been disputed. It is also admitted that no registered lease deed was ever executed between the parties and that the only document executed for

creation of tenancy is the unregistered lease deed dated 29.09.2000 creating the tenancy w.e.f 01.09.2000 to 31.08.2005.

23. It is the appellant's own contention that vide notice dated 04.04.2005 received by the appellant, Smt Tarakeshwari Devi communicated her intention to terminate the tenancy of the appellant and the said notice was duly replied by the appellant on 30.04.2005 wherein the appellant had requested Smt Tarakeshwari Devi to extend the lease for a further period of five years from 01.09.2005 to 31.08.2010. The appellant has also admitted in its written statement that the letter dated 30.04.2005 was duly replied by Smt Tarakeshwari Devi on 04.05.2005 wherein she did not accede to the request of the appellant and communicated her inability to extend the lease for a further period of five years. However, it is contended by counsel for appellant that even after communicating her inability to extend the lease, the respondents did not take any further steps to terminate the tenancy and continued to accept the rent from the appellants thereby waiving the notice dated 04.04.2005 and extending the lease for a further period of five years.

24. It is no longer *res integra* that where a tenancy has expired by efflux of time but the tenant continues to be in possession of the leased premises, mere acceptance of rent by the landlord neither amounts to renewal of tenancy nor does it create a new one. In ***Shanti Prasad Devi v. Shankar Mahto*** reported in (2005)5 SCC 543, the Apex Court observed "*we fully agree with the High Court*

and the first appellate court below that on expiry of period of lease, mere acceptance of rent for the subsequent months in which the lessee continued to occupy the lease premises cannot be said to be a conduct signifying 'assent' to the continuance of the lease even after expiry of lease period."

25. A similar view was expressed in the case of **Sarup Singh Gupta v. S. Jagdish Singh & Others** reported in 128 (2006) DLT 534 (SC) wherein the Apex Court held as under:

"8. In the instant case, as we have noticed earlier, two notices to quit were given on 10th February, 1979 and 17th March, 1979. The suit was filed on June 2, 1979. The tenant offered and the landlord accepted the rent for the months of April, May and thereafter. The question is whether this by itself constitutes an act on the part of the landlord showing an intention to treat the lease as subsisting. In our view, mere acceptance of rent did not by itself constituted an act of the nature envisaged by Section 113, Transfer of Property Act showing an intention to treat the lease as subsisting. The fact remains that even after accepting the rent tendered, the landlord did file a suit for eviction, and even while prosecuting the suit accepted rent which was being paid to him by the tenant. It cannot, therefore, be said that by accepting rent, he intended to waive the notice to quit and to treat the lease as subsisting. We cannot ignore the fact that in any event, even if rent was neither tendered nor accepted, the landlord in the event of success would be entitled to the payment of the arrears of rent. To avoid any controversy, in the event of termination of lease the practice followed by Courts is to permit the landlord to receive each month by way of compensation for the use and occupation of the premises, an amount equal to the monthly rent payable by the tenant. It cannot, therefore, be said that mere acceptance of rent amounts to waiver of notice to quit unless there be any other evidence to prove or establish that the landlord so intended. In the instant case, we find no other fact or circumstances to support the plea of waiver. On the contrary the filing of and

prosecution of the eviction proceeding by the landlord suggests otherwise.”

26. In ***Central Bank of India v. Shri Lalit Kumar Bhargava***

(HUF) reported at 2006 V AD (Delhi) 169, it was held as under:

“12. The law is well-settled that no tenant can be allowed to retain possession of the tenanted premises without payment of rent/damages for its use and occupation. The law is equally well settled through a catena of judgments, both of High Courts and of Supreme Court, that mere acceptance of rent after service of notice to quit does not amount to creation of a new tenancy and that the notice to quit is not waived by mere acceptance of rent.”

27. Applying law laid down by the Apex Court and High Court, I find no force in the contention of the counsel for appellant that the tenancy was further extended for a period of five years by virtue of mere acceptance of rent.

28. Admittedly, no registered lease deed has been executed between the parties and therefore according to section 107 of the Transfer of Property Act, the tenancy of the appellant was a month-to-month tenancy and can be validly terminated by giving a fifteen day's notice to the tenant which in the present case is the legal notice dated 16.01.2008. The receipt of the legal notice dated 16.01.2008 has also not been disputed by the appellant in its written statement. In fact, the aforesaid notice was duly replied to by the appellant vide its letter dated 28.01.2008. The rate of rent has also not been disputed which was fixed at Rs. 18,000/- per

month and above Rs.3500/-. The relationship of landlord and tenant are also not disputed.

29. Having regard to the facts of this case and the settled position of law and taking into consideration that the relationship of landlord and tenant is admitted; a valid legal notice was issued terminating the tenancy which was duly received by the appellant and replied to; and the rate of rent being more than Rs. 3500/- per month, I do not find any infirmity in the judgement and decree passed by the learned trial court. Accordingly, the appeal is without any merit and the same is dismissed with costs quantified at Rs.10,000/-

G.S.SISTANI, J.

APRIL 29th 2011.