

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.1927 of 2012 (O&M)

Date of Decision.19.05.2015

Krishan Kumar

.....Petitioner

Versus

Smt. Seema and others

.....Respondents

Present: Mr. Amit Jain, Advocate
for the petitioner.

Mr. O.P. Goyal, Senior Advocate with
Mr. R.S. Kang, Advocate
for the respondents.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

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K. KANNAN J. (ORAL)

1. There is an application for determination of mesne profits in tenancy proceedings where the order of eviction has been passed by the Rent Controller and the appeal had been filed by the tenant with an application for condonation of delay of 64 days in preferring the appeal. The appeal was dismissed as barred by limitation. The revision is against the order of summary rejection of appeal as barred by limitation. It would seem that while ordering notice in the appeal, the Court had determined ₹ 2,000/- per month as mesne profits. However, the appeal was dismissed not on merits but on the ground that there was no justification for preferring the appeal beyond of the period of limitation.

2. Normally in a situation where a consideration is made by the

Appellate Authority on merits and the revision would require a consideration on points of law and facts and it could take a long time before the case is posted for regular hearing, it would be appropriate that the Court determines mesne profits so that the landlord who had obtained an order of eviction has the benefit of at least securing rent which is reasonable and appropriate as per the present market conditions. In a situation where the appeal by the Court below was itself not considered on merits but only on the ground that it was filed beyond the period of limitation, the disposal of the revision itself does not pose any serious challenge and may not take judicial time. With the consent of both the parties, I have taken up revision petition itself for final hearing.

3. The delay of 64 days could well be compensated by imposition of costs which I would determine as ₹ 10,000/- to be paid by the tenant to the landlord within a period of 15 days from the date of receipt of copy of this order. If the amount is paid, the order already passed would stand set aside and the appeal is directed to be renumbered and heard and disposed of on merits by the lower Appellate Court. If the amount is not deposited within the time as directed, the order already passed shall stand confirmed and no reliefs are necessary.

4. Having regard to the fact that I have disposed of the revision petition itself, I do not think it is necessary to consider the issue of determination of mesne profits. It is open for the landlord to apply before the lower Appellate Court and seek for redetermination of mesne profits. The Court will redetermine the same on the basis of available evidence and the Appellate Court may pass such orders before

the appeal is taken up and disposed of.

5. With these observations, the civil revision is allowed. The application for determination of mesne profits is disposed of as unnecessary in the light of the directions given already. The landlord will be at liberty to argue that redetermination of mesne profits could take effect from any day when the revision was filed or when the application for redetermination of mesne profits filed before this Court. The Court will consider such a plea after hearing the objection from tenant and pass suitable orders.

(K. KANNAN)
JUDGE

May 19, 2015
Pankaj*