

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 3792 of 2015(O&M)
Date of Decision: November 4, 2015

Surinder Kumar Puri (Since deceased) through L.Rs

..... Petitioners

Versus

Pawan Kumar

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Varun Sharma, Advocate
for the petitioners.

Mr. Ish Puneet Singh, Advocate
for the respondents.

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?

Amit Rawal, J (Oral)

The challenge in the present petition is to the impugned order whereby in pursuance to the interim order passed by the appellate court while staying operation of the impugned judgment and decree of the trial court, the petitioner-defendant has been directed to move appropriate application for determination of mesne profits to be assessed by the trial court. Since the parties were at variance the trial court framed the issues and on the basis of evidence found that the rate of rent instead of ₹300 per month which the petitioner was paying ordered to pay ₹3000/- per month.

Learned counsel for the petitioners-defendants

submits that as per the documentary evidence placed on record the market rent of covered area of 285 sq.yard has been proved to be ₹1,000/- per month. Thus, submits that the trial court has committed illegality and perversity in determining the rent at the rate of ₹3,000/- per month.

Learned counsel for the respondents-decree holder-plaintiffs submits that there is no illegality and perversity in the order whereby the amount of ₹3,000/- as mesne profits has been determined from the date of the order of the lower appellate court whereas it should have been from the date of judgment and decree of the trial court.

He further submits that the trial court determined the mesne profits by taking into consideration the candid admission of the petitioners-defendants who unequivocally admitted that the premises is surrounded by commercial place.

I have heard learned counsel for the parties and appraised the paper book.

In view of the facts noticed above, I am of the view that since the property is situated in old Mohalla and the appeal is slated for arguments, the mesne profits determined by the trial court are at a little higher side than the one assessed.

Keeping in view the evidence brought on record as well the statements, the mesne profits, in my view, should have been ₹2,500/- per month and ordered accordingly.

With the aforementioned observations, the order of the trial court is modified. The mesne profits are determined at

₹2,500/- per month, which is to be paid from the date of order of the appellate court.

The petitioner is directed to deposit the entire mesne profits within a period of two days from the date of receipt of copy of this order. Thereafter, the lower appellate court shall decide the appeal in accordance with law.

The revision petitions stands allowed.

(AMIT RAWAL)
JUDGE

November 4, 2015
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