

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**RSA No.5039 of 2013 O&M)
Date of decision: 12.01.2015**

Deepanshu Pushdeep Welfare Trust Rewari ... Appellant

Vs.

Fisheries Farm, Government Fisheries Seed
Farm and another ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Saravjit Singh Khurana, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

This regular second appeal is directed at the instance of plaintiff-appellant against the judgment and decree dated 31.07.2013 passed by the lower Appellate Court whereby the appeal of the defendants-respondents has been partly allowed and the appeal of the plaintiff-appellant has been dismissed.

The claim of the plaintiff-appellant before the trial Court was for recovery of ₹ 3,65,000/- as well as for possession of the property in dispute. It is a matter of record that possession of the property was handed over by the defendants-respondents to the plaintiff-appellant in August, 2011. The trial Court decreed the suit of the plaintiff-appellant by granting damages @ ₹ 1000/- per day along

with interest @ 6% per annum. However, the lower Appellate Court in appeal filed by the defendants-respondents set aside the said findings and granted the mesne profits to the plaintiff-appellant against the rent @ ₹ 3200/- per month to ₹ 5,000/- per month.

Learned counsel appearing on behalf of the appellant contends that both the Courts below have not referred Ex.PW6/3, lease agreement dated 15.03.2008 wherein premises located adjacent to the property in dispute were rented out @ ₹20,000/- per month. Concededly, the lease deed had been entered into by Ajay Aggarwal trustee of the Trust who also owns property adjacent to the property in dispute. No witness of the said lease deed had been examined by the defendant-respondent to prove that the rent of the demised property in the vicinity was ₹ 20,000/-.

The lower Appellate Court has also increased the rent from ₹ 3200/- per month to ₹ 5,000/-per month in respect of the period for which the defendants-respondents remained in unauthorized possession.

No fault can be found with the finding which is based on the equity. No miscarriage of justice has been caused to the plaintiff-appellant.

I do not find infirmity, illegality much less perversity with the finding of the lower Appellate Court.

No substantial question of law arises for adjudication of this appeal.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

January 12, 2015
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