

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

R.S.A. No. 63 of 2016 (O&M)

Date of Decision: 12.01.2016

Manjit Kaur and others

.....Appellants

Versus

Joginder Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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?

Present:- Mr. Satbir Rathore, Advocate, for the appellants.

SHEKHER DHAWAN, J

Present Regular Second Appeal is against judgment and decree dated 23.07.2015 whereby appeal filed by defendants was partly accepted modifying the rate of interest awarded by the Court of first instance.

2. For the sake of convenience, the parties are being referred to as per their status before the Court of first instance. Relevant facts for the purpose of decision of present Regular Second Appeal that plaintiff Joginder Singh had filed a suit for recovery of ₹72,000/- along with interest @ 36% per annum as rent/profit for use and occupation of land till realization of decretal amount. More so, most of the facts having been not disputed on the basis of pleadings of the parties and Court of first instance

having appreciated the evidence after framing of issues, decreed the suit of the plaintiff for recovery of ₹72,000/- along with interest @ 36% per annum as rent/profit for use and occupation of land till realization of decretal amount. However, defendants preferred appeal before the Court of first appellate Court and first appellate Court maintained the findings regarding plaintiff being entitled to recover a sum of ₹72,000/- per annum but modified the rate of interest to be 9% per annum from 21.10.2011 (the date on which ₹72,000/- become due) till the date of decree of suit i.e. 13.02.2015 and future interest at the rate of 6% per annum from the date of decree of the suit i.e. 13.02.2015 till realization of actual amount and the present Regular Second Appeal before this Court.

3. Learned counsel for the appellants submitted that both the Courts below have returned the findings without their being any evidence available on file and mis-appreciated the evidence and the said findings are liable to be reversed and the present appeal be accepted.

4. Having considered the submissions made by learned counsel for the appellants, this Court is of the considered view that both the Courts below have already appreciated the controversy and considered the evidence available on file, the findings of fact have been recorded after appreciation of evidence. There is absolutely no substantial question of law involved in this case, calling for interference by way of present Regular Second Appeal.

5. As regards to reasonableness of rate of interest, the first appellate Court has already taken care of that and taken a most reasonable view as regards to payment of rate of interest.

6. Otherwise, this being the Regular Second Appeal against concurrent findings of both the Courts recorded on the basis of facts and

evidence available on file and as such, the same is not maintainable. There is absolutely no substantial question of law involved in this case. Such a law was laid down by Hon'ble the Supreme Court in case **Santosh Hazari Vs. Purushottam Tiwai (Dead) by LRs., 2001(2) JT 407.**

7. In view of the above, the present Regular Second Appeal is without any merit and same stands dismissed.

January 12, 2016

naresh.k.

**(SHEKHER DHAWAN)
JUDGE**