

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

Civil Revision No.2661 of 2015

Date of decision: 16.01.2017

Ram Singh and another

...Petitioners

Versus

Vinod Kumar and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Diwan S. Adlakha, Advocate for the petitioners.

Mr. Ashwani Gaur, Advocate for the respondents.

G.S.SANDHAWALIA, J. (Oral)

The petitioners challenge the order dated 19.12.2014 (Annexure P/4) whereby the Lower Appellate Court stayed the operation of the judgment under appeal dated 28.8.2014 subject to payment of ₹ 5000/- per month as mesne profits which was to be paid by the present appellant. The disbursement was subject to decision of the appeal and not to be done till disposal of the appeal. Challenge has also been raised to the subsequent order dated 5.3.2015 (Annexure P/5) whereby the arrears of mesne of profits @ ₹ 5000/- per month with effect from 18.8.2009 till 31.3.2015 were to be paid on or before 30.4.2015 to the respondents and thereafter the payment was to be made of mesne profits till the disposal of the appeal either by making payment to the respondents or by depositing in the trial Court.

Admittedly, the trial Court while decreeing the said suit for possession of the respondents vide judgment and decree dated 28.8.2014 (Annexure P/2) had directed that the defendants are liable to pay ₹ 10,000/- per month as mesne profits from the date of filing of the suit till delivery of

possession.

After hearing counsel for the parties, this Court is of the opinion that vide impugned orders dated 19.12.2014 and 5.3.2015, the Lower Appellate Court only protected the interest of the other side and only 50% of the amount had been directed to be deposited to ensure that the plaintiffs are adequately protected till the decision of the appeal. The said order does not suffer from any infirmity or illegality which would warrant interference by this Court as the petitioners' interest can be adequately protected by furnishing of the security bond by the respondents.

Accordingly, the present revision petition is dismissed. However, it is made clear that the amount as ordered by the Lower Appellate Court can be deposited within three months from today. In case the amount is deposited, it will be open to the respondents to withdraw the same subject to furnishing of immovable security or bank guarantee to the satisfaction of the Trial Court, Panchkula.

January 16, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No