

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.3849 of 2017 (O&M)
Date of Order: 04.08.2017

Sandeep Mahajan

..Appellant

Versus

Punjab Wakf Board

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anupam Bhardwaj, Advocate,
for the appellant.

ANIL KSHETARPAL, J (Oral).

C.M.No.9578-C of 2017

Prayer in this application is for condonation of delay of 71 days in re-filing the appeal.

For the reasons stated in the application, which is supported by an affidavit, the application is allowed and delay of 71 days in re-filing the appeal is condoned.

C.M.No.9579-C of 2017

Prayer in this application for condoning the delay in making up the deficiency in deposit of the Court fee.

For reasons stated in the application, which is supported by an affidavit, the same is allowed. Deficiency in the Court fee has already been made good.

RSA No.3849 of 2017

Defendant-appellant has filed this regular second appeal against concurrent judgments and decrees passed by the Courts below.

Plaintiff had filed a suit for possession by way of ejectment of defendant in respect of shop bearing no.406/1, situated at Old Mewa Mandi, Amritsar. Ownership of the plaintiff was not in dispute.

It was the case of the plaintiff that the shop, in dispute, was leased out to Shri Barkat Ram, father of the defendant, in the year 1989. Shri Barkat Ram expired in 2004. It was asserted that no fresh lease was executed in favour of the defendant. Plaintiff also claimed that arrears of rent have also not been paid for quite some time.

Defendant-appellant contested the suit and submitted that rent was paid upto 31.03.2004 and thereafter plaintiff has stopped accepting the rent.

Learned trial Court after appreciating the evidence available on record and after examining the pleadings of the parties, decreed the suit filed by the plaintiff and also ordered that the plaintiff shall be entitled to recover Rs.8300/- as arrears of rent, till the date of filing of the suit and thereafter appellant was directed to pay mesne profits at the rate of Rs.2000/- per month with effect from 01.03.2011 till the date of delivery of actual physical possession.

Defendant-appellant filed an appeal. Learned first appellate Court also after re-appreciating the evidence available on the file has affirmed the finding arrived at by the trial Court.

Defendant-appellant has filed this regular second appeal. It has been submitted by the appellant that there was no evidence available on the file to assess the mesne profit @ Rs.2000/- per month. Learned counsel for the appellant has further submitted that the finding arrived at by the Courts below is misreading of evidence.

I have considered the submissions made by the counsel for the appellant.

Counsel for the appellant is not correct in asserting that there was no evidence for determining the mesne profit. Learned trial Court as well as the first Appellate Court after examining the evidence available on the file has assessed the rate at which the plaintiff is entitled to mesne profit.

The shop is situated in Old Mewa Mandi, Amritsar within the famous city Amritsar. The rate of rent is very high. Therefore, the mesne profits as assessed by the Courts below do not require any interference.

I have heard counsel for the appellant at length and with his able assistance gone through the judgments passed by the Courts below.

Counsel for the appellant has not been able to show any substantive misreading of evidence, which may effect the result of the case.

Taking into consideration the facts and circumstances of the case, I do not find any reason to interfere with the findings arrived at by the Courts below. Therefore, the regular second appeal is ordered to be dismissed.

August 04, 2017
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No