

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.805 of 2012 (O&M)

Date of decision: 26.03.2018

Krishan Kishore Tandon

..... Appellant

Versus

Nikhil Tandon and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- None for the appellant.

Mr. Abhilaksh Grover, Advocate
for respondents No.1 and 2.

ANIL KSHETARPAL, J. (ORAL)

CM-4504-C-2018

Application is allowed subject to just exceptions. Legal heirs of respondent No.2 as mentioned in para No.3 of the application are brought on record. Amended memo of parties is taken on record.

Main Case

Called twice, counsel for the appellant has chosen not to appear in support of the appeal.

In the first round, there was a request for pass over on behalf of learned counsel for the appellant. The request was accepted and the case was passed over. In the second round, no one is present on behalf of the appellant. Hence, this Court is left with no choice but to read and decide the case.

Defendant-appellant is in the regular second appeal against the

concurrent finding of fact arrived at by the Courts below.

Plaintiff had filed a suit for mandatory injunction directing the defendants to deliver possession of four rooms-two rooms on the ground floor and two rooms on the first floor on the ground that the defendant was a licensee, being closely related, and has already shifted to his newly built house. However, he is keeping possession of four rooms. Prayer was also made to grant decree of mesne profit.

Both the Courts after appreciating the evidence available on the file decreed the suit. It is not disputed that during the pendency of the present appeal, possession of the premises has been handed over to the respondent-plaintiff. The only issue which remains to be adjudicated is as to what should be the rate of mesne profit. Both the Courts have examined the evidence on this aspect and have found that mesne profit @ 1200/- per month would be just and reasonable. The Court has also passed a decree for Rs.12,960/- from 01.10.1999 to 24.08.2000.

The property is situated in Jalandhar city which is an industrial town. The defendant-appellant has remained in possession of the property till the possession was delivered during the pendency of the appeal. Hence, the charges for use and occupation assessed by the Court do not require any interference.

Appeal is dismissed.

26.03.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No