

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4962 of 2015 (O&M)

Date of Order:11.07.2018

Sukhdev Singh and others

..Appellants

Versus

Sukhjinder Singh(since deceased) through his LRs

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vijay Lath, Advocate,
for the appellants.

ANIL KSHETARPAL, J(Oral)

The only grievance raised during the arguments by learned counsel for the appellant is that the first appellate court while modifying the judgment has made the legal heirs of Didar Singh personally liable.

It may be noted that learned trial court while decreeing the suit for mesne profit, had directed that the same be recovered from Didar Singh, who was found to be in unauthorised possession. Didar Singh died on 28.04.2010. Learned trial court decreed the suit and held that the plaintiff to be entitled to recover mesne profit to the tune of Rs.1,39,500/- from the estate of late Sh. Didar Singh whereas the first appellate court reduced the amount to Rs.94,500/-. Last paragraph of the judgment passed by the learned first appellate court, is extracted as under:-

“17. Keeping in view the above said discussion, the present appeal is partly accepted by way of setting aside the impugned judgment and decree and suit filed by respondents/plaintiffs is partly decreed to the extent that

respondents/plaintiffs are held entitled to recover the amount of mesne profits to the extent of Rs.94500/- (i.e. for the period of three years from 1.3.2008 to 1.3.2011). Decree sheet be drawn. Lower Court record be sent back. Appeal file be consigned to Record Room.”

The only modification which has been ordered by the first appellate court is with respect to reduction of the amount sought to be recovered. The finding of the trial court that the amount is to be recovered from the estate of Didar Singh inherited by the defendants has not been set aside.

In view of the above, the appeal is disposed of while observing that the submission made by the learned counsel for the appellant is misplaced.

Since, the appeal has been disposed of without issuing notice to the plaintiffs-respondents, they shall be at liberty to move an application for recall, if they feel aggrieved.

July 11, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No