

RSA-3048-2017 (O&M)

132

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

RSA-3048-2017 (O&M)

Date of decision : 18.12.2018

S. Kartar Singh @ Kartar Singh Arora and another

... Appellants

Versus

Raj Kumar (deceased) through LRs and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sharad Mehra, Advocate
for the applicants/appellants.

AMIT RAWAL, J.

CM-18529-C-2018

For the reasons stated in the application, the application is allowed and the appeal is ordered to be restored to its original number i.e. RSA-3048-2017.

CM-7588-C-2017

For the reasons stated in the application, the delay of 06 days in filing the appeal is condoned.

CM stands disposed of.

RSA-3048-2017

The short point involved in the present case is whether the plaintiffs could seek the mense profits @ ₹3,000/- per month, while simultaneously seeking ejectment of the tenant on various grounds including arrears of rent.

Concededly, the tenant did not succeed before the Court of Rent Controller and before the Appellate Authority. However, in the

RSA-3048-2017 (O&M)

proceedings reached in this Court vide CR No.5308 of 2007, an undertaking was given by the tenant to retain the premises, the counsel representing the land-lady, gave a consent for retention of the premises for a period of 1½ years. The Court while noticing the aforementioned consensus arrived at between the parties passed the following order:-

"The petitioner shall be entitled to retain the possession of the tenanted premises till 17.02.2010 subject to his filing an undertaking in this court within a period of one month from today undertaking therein to hand over the vacant possession of the tenanted premises to the respondent landlord on or before 17.02.2010 and the defendant shall clear all the arrears of rent till date within one month from 11.11.2008."

It is not in dispute that the tenant had not cleared the arrears of rent or the rent retaining the premises for a period of 1½ years. In view of such matter, the mense profits could not have been claimed. It is also not in dispute that when the tenant had filed the appeal, landlord ought to have opposed the interim stay, subject to the determination of the mense profits.

In this view of the matter, there cannot be any illegality or perversity in the judgments and decrees of the Courts below, much less, no substantial question of law arises for determination.

Resultantly, the regular second appeal is dismissed.

18.12.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**