

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

113

CR-1910-2021 (O&M)

Date of decision:15.09.2021.

SANJAY NAGRATH

...Petitioner

Versus

RAJ KUMAR NAGRATH AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajesh Bansal, Advocate,
for the petitioner.

ANIL KSHETARPAL, J (Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The Judgment Debtor assails the correctness of the order passed by the Executing Court directing the Decree Holder to give calculation sheet of the arrears of the mesne profit.

No doubt, the Regular Second Appeal filed by the appellant is pending in this Court, however, by a specific order dated 22.11.2019, the petitioner was directed to pay the amount of mesne profit. The operative part of the order reads as under:-

“As a matter of fact, the appellants-defendants had been directed to pay the mesne profits at the rate of Rs.7000/- per month w.e.f. 18.02.2011 and by an order dated 21.01.2015 passed in RSA No.244 of 2015, this court while issuing the notice of motion, had directed the parties to maintain status quo regarding possession, as it was existing on that date. After the filing of the execution petition for recovery of the mesne profits, the appellants-

defendants had approached this court by way of CR No.2660 of 2016, in which by an order dated 12.04.2016, the execution proceedings had been ordered to be stayed, which interim order is still continued. Under this background of the case, this court is convinced with the arguments raised by counsel for the respondent-plaintiff that since there are concurrent findings of the courts below in favour of the respondent-plaintiff and the appellants-defendants are enjoying the demised premises without paying a single penny to him, despite the fact that by its judgment and decree dated 23.09.2013, the lower court had directed the appellants-defendants to pay the mesne profits at the rate of Rs.7000/- per month w.e.f. 18.02.2011 on account of use and occupation charges of the demised premises, this court thinks it appropriate to direct the appellants-defendants to deposit the mesne profits, as directed by the lower court on 23.09.2013 upto the month of January, 2020 with the execution court within a period of two months from today, with a further direction to pay the future mesne profits with the executing court on or before 7th day of subsequent month regularly. The executing court is directed to deposit the said mesne profits in a fixed deposit with some nationalized bank fetching higher interest and the same would be released, subject to the further order of this court. In case of noncompliance of this order by the appellants-defendants, there would be no hurdle for the respondent-plaintiff in executing the judgments and decrees passed by the courts below.

Put up on 31.01.2020.

Interim order to continue, subject to the aforesaid compliance of the order.

A photocopy of this order be placed on the file of connected case.”

The petitioner filed Special Leave to Appeal before the Supreme Court which was disposed of with the following order:-

“We do not see any reason to interfere with the order passed by the High Court. The Special Leave Petition is dismissed. Pending application, if any stand disposed of.

However, the tiem granted by the High Court for deposit of the mesne profits is extended by 30 days from today.

Hearing of the appeal may be expedited, as the matter is of the year, 2015.”

Keeping in view the aforesaid facts, the Executing Court has directed the Decree Holder to provide the calculation sheet.

The learned counsel representing the petitioner contends that since the Regular Second Appeal filed by the petitioner is pending therefore, the proceedings before the Executing Court should be stayed.

This Bench has considered the submission, however, expresses its inability to accede to the request.

Once a Coordinate Bench after hearing the parties has passed a specific order, on 22.11.2019, which has not been interfered by the Hon'ble Supreme Court, it will not be appropriate for this Bench to pass a contradictory order.

In view thereof, the revision petition is dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

September 15, 2021
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(ANIL KSHETARPAL)
JUDGE

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