

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

105

**CR-1716 of 2015 (O&M)
Date of decision: 29.08.2022**

Naib Singh and others

..Petitioners

Versus

Avtar Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjiv Gupta, Advocate
for the petitioners.

Mr. Vineet Sehgal, Advocate
for the respondents.

ANIL KSHETARPAL, J(Oral)

The petitioners herein are the landlords who have a judgment and decree, for possession of premises by way of eviction of the tenants-respondents in their favour. In fact, the tenants had already vacated the premises on 29.07.2013. The dispute with regard to the liability to pay charges for mesne profit for use and occupation of the rented premises was pending before the Executing Court, wherein the (tenants) have been permitted to take away the structure installed by them.

The learned counsel representing the petitioners contends that in the absence of a specific decree, the Executing Court could not order the respondents-judgment debtors to take away the installed structure.

The learned counsel representing the respondents does not dispute that fact, however, he submits that there is no prohibition in the judgment and decree to permit such removal.

The respondent-tenants had vacated the premises on 29.07.2013. The judgment and decree was passed by the First Appellate Court on 23.12.2014. It has further been brought to the notice of the Court

that while appearing as DW1, the respondent has deposed that he has removed all his material from the tenanted premises. In the absence of a provision in the judgment and decree to enable the judgment debtors to remove structures from the tenanted premises in question, the Executing Court has erred in passed an order to this effect.

Hence, the order under challenge is set aside to that extent.

Disposed of accordingly.

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

August 29, 2022

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(ANIL KSHETARPAL)
JUDGE

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