

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 713 of 2013 (O&M)

Date of Decision: 22.04.2022

M/s Kaku Rice Mills

... Appellant(s)

Versus

M/s Dhablan Rice & Oil Mills and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Nandan Jindal, Advocate
for the appellant(s).

Mr. Rakesh Gupta, Advocate
for the respondents.

Anil Kshetarpal, J.

1. The defendant No.1/appellant assails the correctness of the judgment, passed by the Additional District Judge, while decreeing a suit for grant of mandatory injunction, filed by the respondent No.1 to 5/plaintiffs. It is the case of the plaintiffs that the appellant was leased out the property, consisting of the Rice and Oil Mill for a limited period, which has come to an end. The defendant No.1-M/s Kaku Rice Mills has also defaulted in payment of electricity consumption bill amounting to ₹ 1,13,327/-.

2. The First Appellate Court, after observing that the defendant No.1 (appellant) has no right, title or interest in the property particularly when the lease period has come to an end and the appellant does not have protection of rent protection laws, decreed the suit.

3. During the pendency of the execution petition, the possession has already been handed over to the plaintiffs. The only argument raised

before this Court is that in fact, the plaintiff No.1, through its partners, was

already in possession and the defendant No.1 (appellant) had surrendered the possession before filing of the suit. The learned counsel representing the appellant submits that the appellant does not claim any right, title or interest in the immovable property, however, it apprehends that the plaintiff No.1 (M/s Dhablan Rice and Oil Mills) has filed a subsequent suit claiming the *mesne profits* for use and occupation of the property and the impugned judgment shall be used against him.

4. As regards the present suit, the trial Court has passed the decree for grant of mandatory injunction and as per that decree, the possession has been delivered. As regards the plaintiffs' right to get the *mesne profits*, the matter is kept pending. If the plaintiff No.1-M/s Dhablan Rice and Oil Mills proves, in a subsequently filed suit, that the defendant No.1 (appellant-M/s Kaku Rice Mills) continued to be in possession, then it shall be entitled to the amount of *mesne profits*. The subsequent suit shall be decided without being influenced by the findings of the Courts below.

5. This order has been passed with the consent of the learned counsel representing the parties.

6. With the observations made above, the present appeal is disposed of.

7. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

April 22, 2022
"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No