

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

104/2

CR-2827-2021 (O&M)

Date of decision : 23.01.2023

Rajinder Kumar Shukla

... Petitioner

Versus

Rajiv Soni and another

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Sapan Dhir, Advocate for the petitioner.

Mr. Aayush Gupta, Advocate for respondent No.2.

Anupinder Singh Grewal, J. (Oral)

The petitioner has challenged the order dated 10.09.2021 (Annexure P-21) whereby the application preferred by him for fixing mesne profit has been dismissed on account of pendency of application under Order 9 Rule 13 preferred by the respondents against the ex parte decree.

Learned counsel for the petitioner submits that the trial Court has erroneously dismissed the application for fixing the mesne profit on the ground that the application under Order 9 Rule 13 CPC for setting aside the *ex parte* decree for eviction of the respondents is pending adjudication.

Learned counsel for respondent No.2, however, submits that in an application filed under Order 9 Rule 13 CPC, the entire evidence has been led and the matter is listed tomorrow for arguments.

Heard.

In view of the above, the petition is disposed of with a direction to the trial Court that in the event of the application under Order 9 Rule 13 CPC being dismissed, the application for mesne profit shall be considered afresh and decided in accordance with law expeditiously.

Pending application, if any, shall also stand disposed of.

**(ANUPINDER SINGH GREWAL)
JUDGE**

January 23, 2023

sonia gugnani

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No