

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

136

RSA-2557-1992
Date of decision: 11.03.2024

RATTAN KAUR

....Appellant

Versus

BUNDELA MANDIR AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Ms. Anamika Sheoran, Advocate for
Mr. Vikas Singh, Advocate
for the appellant.

Mr. Ram Lal Gupta, Advocate
for respondents No.1 to 3.

KULDEEP TIWARI. J.(Oral)

1. This is a defendant's regular second appeal. The suit for possession was filed by the respondents-plaintiffs, which was decreed vide judgment and decree dated 29.08.1987, whereby, directions were issued upon the defendants to deliver the possession of the suit property to the plaintiffs within two months from the date of judgment.
2. Having aggrieved with the aforesaid directions, the defendants preferred the appeal before the Additional District Judge, Patiala, which got dismissed, vide order dated 20.05.1992.
3. This caused grievance to the defendant/appellant, and the defendant/appellant preferred the regular second appeal, challenging the judgment and decree passed by the Courts below.

4. During the pendency of the instant appeal, on 05.07.2010, this Court while deciding the application for payment of mesne profits, directed the defendant (appellant) to deposit the mesne profits, and in case of failure to pay the arrears or future amount, *status-quo* order dated 18.12.1992, would be declared vacated automatically. The relevant part of the same reads as under:-

"In view of the aforesaid, I am of the considered opinion that ends of justice would be met if the appellant is directed to pay compensation/mesne profits for use and occupation of the suit property at flat rate of Rs.750/- per month since 18.12.1992 i.e. the date of passing of status-quo order. It is ordered accordingly. Arrears of the due amount shall be paid within two months from today and the due amount in future shall be paid every month by 15th of every month. On failure to pay the arrears or future amount, status-quo order dated 18.12.1992 shall stand vacated automatically. The application stands disposed of accordingly."

5. Today, learned counsel for the respondents submits that the appellant-defendant has failed to comply with the said order (supra), which results into assumption of possession by the respondents.

6. Learned counsel for the appellant pleads no instructions.

7. In view of the specific statement made by learned counsel for the respondents, no cause of action survives, and due to non-compliance of the order, the possession has been taken by the respondents-plaintiffs in view of the judgment and decree passed by the Court(s) below.

8. Therefore, the instant appeal is ordered to be **dismissed**. However, reserving the liberty to the appellant, that in case, the statement regarding

assumption of possession by the respondents is found to be incorrect, the appellant may get revive the instant appeal.

11.03.2024
amandeep

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No