



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(101) RSA-1022-1993 (O&M)

AVINASH SOOD (SINCE DECEASED) THROUGH HIS LRS.

... Appellants

Versus

INDIAN BANK AND ORS.

... Respondents

Judgment Reserved on	Judgment Pronounced on	Judgment Uploaded on	Whether only the operative part of the judgment is pronounced	Whether the full judgment is pronounced
29.01.2026	09.03.2026	09.03.2026	NO	YES

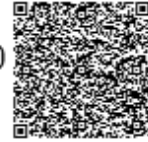
CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Bhavnik Mehta, Advocate
for the appellants.

Mr. Naresh Jain, Advocate with
Mr. Jorav Goel, Advocate
for the respondents.

SUVIR SEHGAL, J. (ORAL)

1. Present Second Appeal has been filed by the appellants/plaintiffs for modification of the judgments and decrees passed by the trial Court as well as the Appellate Court.
2. Appellants filed a suit for a decree for possession by ejectment of the respondents from office premises as per site plan located on G.T. Road, Tehsil



and District Ambala, and for recovery of Rs.37,000/- on account of mesne profits for use and occupation charges from 01.12.1982 to 31.12.1985 (the date 31.12.1985 has been wrongly mentioned instead of 30.11.1982). Plaintiff averred that he is the owner of the premises, which was leased out to the defendants-respondents for a period of five years at a monthly lease of Rs.400/-. The lease deed provided for an extension. Lease period expired and a protracted correspondence ensued between the parties, but the parties could not agree at the increase in lease amount. Plaintiffs served a notice dated 16.12.1988 under Section 106 of the Transfer of Property Act and instituted a suit described above. Upon being served, respondents resisted the suit by filing a written statement. Besides taking various preliminary objections, it was stated that plaintiff is demanding exorbitant rent, which is not acceptable as the plaintiff has not provided facilities for the bank employees. A plea was taken that payment of rent is being sent monthly, which is not being accepted and a part of the claim raised by the plaintiff is time barred. Plaintiff filed a replication and trial Court framed issues on which both the parties led evidence. During the pendency of the suit before the trial Court, defendants vacated the building on 25.02.1988. After contest, suit was decreed by the trial Court by judgment dated 15.12.1990. Trial Court found that a part of the claim raised by the appellant was time barred as it was beyond a period of three years and one month of the filing of the suit. Suit was decreed for recovery of Rs.14,400/- with proportionate cost. Plaintiff filed an appeal before the learned Additional District Judge, Ambala, for modification of the decree of the trial



Court, which was partly accepted. First Appellate Court granted interest @ 18% per annum on the decretal amount from the date of the decree, till its realization. Dissatisfied, appellant has approached this Court by way of this appeal.

3. Counsel for the appellant has argued that the appellant is entitled to interest on the decretal amount from the date of filing of the suit, which has been erroneously declined by the First Appellate Court. By relying upon Order 20 Rule XII, of Civil Procedure Code, it has been urged that appellant is entitled to mesne profits and interest from 01.01.1986 till the time the respondents handed over the vacant possession of the property i.e. 28.02.1988.

4. Opposing him, counsel for the respondents has made a reference to the plaint to contend that appellant did not seek relief of future mesne profits or interest thereof. He contends that in the absence of a specific prayer, claim for future mesne profits cannot be accepted.

5. I have heard counsel for the parties and considered their submissions, besides examining the requisitioned record.

6. The admitted position is that the appellant is the owner of the suit premises which was leased out to the respondents for a period of five years from 01.12.1982 to 30.11.1985. A lease deed was entered into between the parties and the monthly lease was fixed at Rs.400/-. Lease deed did contain a stipulation regarding the extension, but it was never extended. By notice dated 16.12.1985, appellant sought eviction of the respondents and also called upon them to pay arrears of mesne profits along with interest. Appellant filed the suit

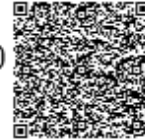


for possession on 28.02.1986. During pendency of the suit, respondents vacated the premises on 25.02.1988. Trial Court found the appellant to be entitled to arrears of rent from 01.01.1983 to 31.12.1985 but did not pass any decree for mesne profit till the vacation of the premises.

7. The attention of both the Courts has not been invited to Order 20 Rule XII CPC, which applies when a claim for rent or mesne profits is made in a suit for recovery of possession of immovable property. The provision reads as under:-

“12. Decree for possession and mesne profit. - (1) Where a suit is for the recovery of possession of immoveable property and for rent or mesne profits, the Court may pass a decree-
(a) for the possession of the property;
(b) for the rents which have accrued on the property during the period prior to the institution of the suit or directing any inquiry as to such rent
(b-a) for mesne profits or directing an inquiry as to such mesne profits;
(c) directing an inquiry as to rent or mesne profits from the institution of the suit until-
(i) the delivery of possession to the decree-holder,
(ii) the relinquishment of possession by the judgment-debtor with notice to the decree-holder through the Court, or
(iii) the expiration of three years from the date of the decree, whichever event first occurs.
(2) Where an inquiry is directed under Cl. (b) or Cl. (c), a final decree in respect of the rent or mesne profits shall be passed in accordance with the result of such inquiry.”

8. This rule applies to cases for ejectment or recovery of possession from a person in possession, without title, together with a claim for mesne profits, past or future. This provision came up for interpretation before the



Hon'ble Supreme Court in **Gopal Krishna Pillai and Others V/s. Meenakshi Ayal and Others, 1967 AIR (SC) 155**, wherein it has been held that in a suit for recovery of possession of immovable property and for past mesne profits, Court has ample power to pass a decree directing an inquiry as to future mesne profits, though there is no specific prayer for the same in the plaint. Apex Court rejected the argument that in the absence of a specific prayer, future mesne profits cannot be granted. The observations of the Hon'ble Supreme Court are reproduced hereunder:-

*“7. Order 20, Rule 12 enables the Court to pass a decree for both past and future mesne profits but there are important distinctions in the procedure for the enforcement of the two claims. With regard to past mesne profits, a plaintiff has an existing cause of action on the date of the institution of the suit. In view of Order 7, Rules 1 and 2 and Order 7, Rule 7 of the Civil Procedure Code and Section 7(1) of the Court Fees Act, the plaintiff must plead this cause of action, specifically claim a decree for the past mesne profits, value the claim approximately and pay court-fees thereon. With regard to future mesne profits the plaintiff has no cause of action on the date of the institution of the suit, and it is not possible for him to plead this cause of action or to value it or to pay court-fees thereon at the time of the institution of the suit. Moreover, he can obtain relief in respect of this future cause of action only in a suit to which the provisions of Order 20, Rule 12 apply. But in a suit to which the provisions of Order 20, Rule 12 apply, the Court has a discretionary power to pass a decree directing an enquiry into the future mesne profits, and the Court may grant this general relief though, it is not specifically asked for in the plaint, see **Basavayya v. Guruvayya, ILR 1952 Madras 173 at p. 177.**”*

9. It is therefore evident from the reading of the judgment of the Hon'ble Supreme Court that both the Courts have erred in failing to consider



appellant’s claim for mesne profits from 01.01.1986, till the date the suit premises was vacated by the respondents. The decree passed by both the Courts deserves to be modified to this extent. Furthermore, First Appellate Court has failed to award interest on the decreetal amount from the date of institution of the suit, till the passing of the decree. Once the Court came to the conclusion that the appellant was entitled to the mesne profits and the same have been withheld by the respondents, a claim for interest for the period during which it has been withheld cannot be logically denied. Appellant is entitled to this limited relief as well.

10. For the foregoing reasons, appellant is held entitled to mesne profits and interest during the period respondents remained in illegal possession of the premises i.e. from 01.01.1986 to 25.02.1988, @ Rs.400/- per month. Keeping in view the falling trend in the rate of interest granted by the bank, interest is awarded to the appellant @ 6% per annum. Appellant is also held entitled to interest on the same rate on the decreetal amount of Rs.14,400/- from 28.02.1986 i.e. the date of institution of the suit till 15.02.1990 i.e. the date of the passing of the decree

11. With the above modification in the judgments and decrees of both the Courts, appeal is disposed of.

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

09.03.2026

(SUVIR SEHGAL)
JUDGE

parul verma

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No