
(2022) 02 RAJ CK 0129

In the Rajasthan High Court

Case No : S.B. Civil Second Appeal No. 157 Of 2008

Bhanwari Devi And Others

APPELLANT

Vs

Sumer

RESPONDENT

Date of Decision : 14-02-2022

Acts Referred:

Code Of Civil Procedure, 1908 — Section 100

Citation : (2022) 02 RAJ CK 0129

Hon'ble Judges : Prakash Gupta, J

Bench : Single Bench

Advocate : Prahlad Sharma, Puesh Nag

Final Decision : Disposed Of

Judgement

Prakash Gupta, J

The instant Civil Second Appeal under Section 100 CPC has been filed by the defendants-appellants (for short 'the defendants') aggrieved by the judgment and decree dated 05.04.2008 passed by the learned Additional District Judge (Fast Track) No.3, Ajmer Camp, Kishangarh (for short 'the First Appellate Court') whereby the said court allowed the appeal filed by the respondent-plaintiff (for short 'the plaintiff') and quashed and set aside the judgment and decree dated 31.03.1997 passed by the learned Civil Judge (Junior Division), Kishangarh, Ajmer (for short 'the trial Court') in Civil Suit No. 60/1992.

Learned counsel for the defendants after arguing the matter at some length, on instruction of his clients, has not pressed this appeal on merits. The only prayer made by him is that time of eighteen months may kindly be granted to the defendants to vacate the tenanted/suit premises (for short 'the premises'). He further submits that the defendants are poor persons, therefore, they are not in a position to pay the arrears of mesne profit, as directed by the Court below.

Learned counsel appearing for the plaintiff on instructions of his client has no objection in granting the time as prayed for by the learned counsel for the

defendant for vacating the premises. He further submits that the plaintiff will not claim arrears of mesne profit, as directed by the Court below.

In view of the aforesaid submission of learned counsel for the parties, this second appeal is being decided in the following terms:-

1. The defendants shall be entitled to continue in possession of the premises uptill 14.08.2023 but not beyond that, subject to condition that they will hand over the vacant and peaceful possession of the premises to the plaintiff on or before 14.08.2023.
2. From 01.01.2022, the defendants shall deposit the mesne profit @ Rs.200/- per month with the bank account of the plaintiff by 15th of each month. The plaintiff shall provide its/his bank account details to the defendants.
3. The defendants shall not alienate or otherwise create third party right or hand over possession of the premises in question to any other person.
4. If the defendants fail to deposit the mesne profit consecutively for four months, the plaintiff shall be at liberty to execute the decree without any further reference to the Court.

Further, the defendants shall submit an undertaking on oath incorporating the aforesaid conditions before the concerned trial Court within a period of four weeks from the date of this order. In case, the defendants fail to submit the undertaking as aforesaid within four weeks from today and/or commit breach of any of the conditions of this order, the plaintiff shall be entitled to execute the decree forthwith and obtain possession of the premises in accordance with law and it will be open for the plaintiff to initiate contempt proceedings in the Court.

The second appeal stands disposed of accordingly. Consequent, upon the disposal of the second appeal, the stay application, filed therewith, does not survive and same also stands disposed of.