
(2018) 01 RAJ CK 0028
In the Rajasthan High Court
Case No : 733 of 2017

Devi Sahay & Ors.

APPELLANT

Vs

Prabhu Dayal & Ors.

RESPONDENT

Date of Decision : 04-01-2018

Acts Referred:

[Code of Civil Procedure, 1908](#), [Section 100](#) - Second appeal

Citation : (2018) 01 RAJ CK 0028

Hon'ble Judges : Prakash Gupta

Bench : Single Bench

Advocate : Dev Krishna Purohit, Mohit Gupta

Judgement

1. The instant Civil Second Appeal under Section 100 CPC has been filed by the defendants-appellants aggrieved by the judgment and decree

dated 26th September, 2017 passed by the learned Additional District Judge No.2, Alwar whereby the learned court below has dismissed the

appeal filed by the defendantsappellants against the judgment and decree dated 11th May, 2004 passed by the Additional Civil Judge No.2 (J.D.),

Alwar in Civil Suit No.136/1986.

2. Learned counsel for the appellant Shri Dev Krishna Purohit 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 one and a half year may kindly be granted to the appellants to vacate the

tenanted premises.

3. Learned counsel appearing for the respondents Shri Mohit Gupta on instructions of his clients has no objection in granting the time as prayed for

by the appellants for vacating the tenanted premises.

4. 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-appellants shall be entitled to continue in possession of the suit premises uptill 03rd July, 2019 but not beyond that, subject to

condition that they would hand over the vacant and peaceful possession of the tenanted premises to the respondents on or before 03rd July, 2019.

2. The appellants shall deposit arrears of mesne profit, if any, due towards them up to 31st December, 2017 at the rate of Rs.15/- per month

within a period of one month from today with the bank account of the respondents and thereafter, from the month of January, 2018, the appellants

shall continue to deposit the mesne profit at the rate of Rs.1,000/- in the bank account of the respondents by 15th of each month.

3. The appellants shall not alienate or otherwise create third party right or hand over possession of the tenanted premises in question to any other

person.

4. If the appellants fail to deposit the mesne profit consecutively for four months, the respondents shall be at liberty to execute the decree without

any further reference to the Court.

5. Further, the appellants shall submit an undertaking on oath incorporating the aforesaid conditions before the Additional Civil Judge No.2 (J.D.),

Alwar within a period of four weeks from the date of this order. In case, the appellants 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 respondents shall be entitled to execute the decree forthwith

and obtain possession of the suit premises in accordance with law. The second appeal stands disposed of accordingly, stay application is also

disposed of.