

(2017) 03 RAJ CK 0039
In the Rajasthan High Court
Case No : 525 of 2016

Kapoor Chand S/o Niranjan Lal		APPELLANT
	Vs	
Rajendra Sharma S/o Chiranji Lal Jangir		RESPONDENT

Date of Decision : 07-03-2017

Acts Referred:

Code of Civil Procedure, 1908, Section 100 - Second appeal

Citation : (2017) 03 RAJ CK 0039

Hon'ble Judges : Prakash Gupta

Bench : SINGLE BENCH

Advocate : JP Goyal, ?Abhi Goyal,?Deepak Pareek

Final Decision : Disposed

Judgement

1. The instant Civil Second Appeal under Section 100 CPC has been filed by the defendant-appellant aggrieved by the judgment and decree dated 11.11.2016 passed by learned Addl. District Judge No.2, Hindaun City whereby the court below has dismissed the appeal filed by the defendant-appellant against the judgment and decree dated 02.04.2012 passed by Addl. Civil Judge (JD) No.1, Hindaun City, in Civil Suit No.74/2004.

2. Shri JP Goyal, learned Sr. Counsel appearing for the appellant, after arguing the appeal at some length, on instruction of his client, has not pressed this appeal on merits. The only prayer has been made by him is that time of 15 months may be granted to the appellant to vacate the tenanted premises.

3. Learned counsel appearing for the plaintiff-respondents Shri Deepak Pareek on instructions of his clients has no objection in granting the time as prayed for by the appellant 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 defendant-appellant shall be entitled to continue in possession of the suit premises up to 30th May, 2018 but not beyond that, subject to condition that he would hand over the vacant and peaceful possession of the tenanted premises to the respondent on or before 30th May, 2018.

2. The appellant shall deposit arrears of mesne profit, if any, due towards him up to 28th February, 2017 at the monthly rate of Rs.220/- within a period of one month from today with the bank account of the respondents and thereafter, from the month of March, 2017, the appellant shall continue to deposit the mesne profit at the same rate in the bank account of the respondents by 15th of each month.

3. The appellant 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 appellant fails 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 appellant shall submit an undertaking on oath incorporating the aforesaid conditions before the Addl. Civil Judge (Jr.Div.) No.1, Hindaun within a period of four weeks from the date of this order. In case, the appellant fails 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.

6. The second appeal stands disposed of accordingly, Stay application is also disposed of.