
(2017) 07 RAJ CK 0011
In the Rajasthan High Court
Case No : 369 of 2017

Kunj Bihari S/o Tulsiram, B/c Gurjar

APPELLANT

Vs

Digambar Singh S/o Babulal, B/c Mali

RESPONDENT

Date of Decision : 05-07-2017

Acts Referred:

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

Citation : (2017) 07 RAJ CK 0011

Hon'ble Judges : Prakash Gupta

Bench : SINGLE BENCH

Advocate : Yogesh Singhal, Sunil Kumar Bansal

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 26th April, 2017 passed by the learned Additional District Judge No.2, Bharatpur whereby the learned court below has dismissed the appeal filed by the defendant-appellant against the judgment and decree dated 16 th February, 2009 passed by the Civil Judge (J.D.) No.2, Bharatpur in Civil Suit No.50/2002.

2. Learned counsel for the appellant Shri Yogesh Singhal after arguing the matter at some length, on instruction of his client, has not pressed this appeal on merits. The only prayer made by him is that time of one and half year may kindly be

granted to the appellant to vacate the tenanted premises.

3. Learned counsel appearing for the respondents Shri Sunil Kumar Bansal 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 31 th January, 2019 but not beyond that, subject to condition that he would hand over the vacant and peaceful possession of the tenanted premises to the respondents on or before 31 th January, 2019.

2. The appellant shall deposit arrears of mesne profit, if any, due towards him up to 30th June, 2017 at the rate of Rs.300/- per month within a period of one month from today with the bank account of the respondents and thereafter, from the month of July, 2017, the appellant shall continue to deposit the mesne profit at the rate of Rs.1,500/- 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 Civil Judge (J.D.) No.2, Bharatpur 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 commits 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.