

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2628 OF 2019  
(@SLP(C) No. 28850 of 2018)

DHARAM DUTTA SHARMA

Appellant(s)

VERSUS

JAGDISH SHASTRI

Respondent(s)

O R D E R

Leave granted.

This appeal arises from a judgment of a learned Single Judge of the High Court of Judicature for Rajasthan at Jaipur Bench dated 12 July 2018.

The appellant instituted a suit for possession and injunction, being Civil Suit No. 11 of 2009 (Old No. 483/1998) before the Additional District Judge, Jaipur. The suit property has been described as bearing No. 89, Krishna Nagar, Gopalpura, Jaipur. The suit was decreed by the trial court on 30 May 2009 in the following terms:

“Order

Consequently this suit of the plaintiff Dharam Dutt Sharma against defendants Nemi Chand Sharma, Jagdish Shastri, Prabhu Dayal Sharma,

Nav Jeevan Grah Nirman Sehkari Samity and Chhagan Lal is decreed and it is ordered that the vacant possession of the disputed land may be delivered by defendant no. 2 to the plaintiff within 2 months and due to non-proving of fact of sale of the disputed plot of land in favour of defendant no. 3 by the plaintiff, the proceedings of transfer of plot of land in his name by defendant no. 3 from Navjeevan Grah Nirman Sehkari Samiti, without any legal right is declared null and void and permanent injunction is issued to stop further construction of the above plot of land by defendant no. 1 and 2. The plaintiff will pay court fees on additional cost of Rs. 10,000/- of the disputed plot of land within one month. So far as the question of construction made by defendant no. 2 on the same and expenses made by him, due to non-existence of any legal transfer of ownership of the disputed plot of land in his favour, for the said purpose, defendant no. 2 will be free to receive the cost and expenses of construction made by him, from the plaintiff with mutual consent if it is so, without removing construction with mutual consent, from the plaintiff. Otherwise defendant will remove the aforesaid construction at his own expenses within 2 months and will handover the vacant possession to the plaintiff. The decree sheet be prepared accordingly."

An appeal by the first respondent is pending before the High Court.

On 12 August 2009, an application was filed by the appellant for the deposit of mesne profits computed at the rate of Rs 15,000 per month. The application was disposed of by the High Court on 12 July 2018 by directing the respondents to pay mesne profits at the rate of Rs 10,000 per month to the appellant with effect from 1 July 2018 and to continue to deposit the amount every month thereafter.

Learned counsel appearing on behalf of the appellant submits that while the appellant does not dispute the quantum of monthly compensation which has been directed by the High Court, there was no justification to order the deposit only from 1 July 2018 when the application had been filed on 12 August 2009, within a few months of the suit being decreed.

The prayer has been opposed on behalf of the first respondent.

Having heard the learned counsel appearing on behalf of the parties, we find merit in the appeal.

The application for deposit was filed by the appellant on 12 August 2009 and remained pending before the High Court for nearly nine years. There was no reason or justification to deprive the appellant of an order of *mesne* profits with effect from the date of the application.

Our view is supported by the decision of this Court in Atma Ram Properties (P) Ltd. vs. Federal Motors Pvt. Ltd.<sup>1</sup> and Anderson Wright & Co. vs. Amar Nath Roy<sup>2</sup>.

We accordingly, modify the order passed by the High Court by directing that the compensation which was directed to be paid by the High Court at the rate of Rs. 10,000 per month shall be paid over with effect from 1 September 2009.

The arrears shall be paid over within a period of three months

1 (2005) 1 SCC 705

2 (2005) 6 SCC 489

from today. Failing payment, the stay which has been granted by the High Court on the execution of the decree shall stand vacated.

The appeal is, accordingly, disposed of. No costs.

Pending application(s), if any, shall stand disposed of.

.....J.  
(DR. DHANANJAYA Y. CHANDRACHUD)

.....J.  
(HEMANT GUPTA)

NEW DELHI  
MARCH 8, 2019

REVISED

ITEM NO.46

COURT NO.11

SECTION XV

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 28850/2018

(Arising out of impugned final judgment and order dated 12-07-2018 in SBCFA No. 472/2009 passed by the High Court Of Judicature For Rajasthan At Jaipur)

DHARAM DUTTA SHARMA

Petitioner(s)

VERSUS

JAGDISH SHASTRI

Respondent(s)

(IA 11010/2019-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 08-03-2019 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MR. JUSTICE HEMANT GUPTA

For Petitioner(s)

Mr. Sarad Kumar Singhania, Adv.  
Ms. Rashmi Singhania, AOR

For Respondent(s)

Mr. Adarsh Upadhyay, Adv.  
Mr. Abhishek Chaudhary, Adv.  
Mr. Amit Singh, Adv.  
Mr. Vikas Chaudhary, Adv.  
Ms. Sujata Upadhyay, Adv.  
M/S. AV Global Chambers, AORUPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(MANISH SETHI)  
COURT MASTER (SH)(SAROJ KUMARI GAUR)  
BRANCH OFFICER

(Signed order is placed on the file)

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COURT NO.11

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R E C O R D O F P R O C E E D I N G S

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DHARAM DUTTA SHARMA

Petitioner(s)

VERSUS

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UPON hearing the counsel the Court made the following  
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(Signed order is placed on the file)