

HIGH COURT OF JUDICATURE FOR RAJASTHAN
JODHPUR

S.B. Civil First Appeal No. 110/2008

Vinod Kumar Agarwal

----Appellant

Versus

Arya Samaj Sanstha

----Respondent

For Appellant(s)	:	Mr. Dharmveer Choudhary for Mr. Anil Vyas
For Respondent(s)	:	Mr. Bharat Rajpurohit for Mr. Shambhoo Singh

HON'BLE MS. JUSTICE REKHA BORANA

Order

23/11/2023

1. An application has been preferred on behalf of respondents with the submission that vide interim order dated 07.03.2008, the eviction of the defendant appellant from the suit premises was stayed subject to the condition of his depositing the arrears of mesne profit and rent as fixed by the learned Trial Court but the same has not been deposited till date.
2. It has further been submitted in the application that the Municipal Board, Abu Road has served a notice on respondent to the effect that the premise in question is in deteriorated position and hence, the same be either demolished by the respondent or the same would be demolished by the Municipal Board.
3. Another application has also been moved with a submission that the sole appellant defendant has expired on 25.03.2022 and as no steps for substitution of his legal representatives have been taken, the appeal be dismissed as having abated.

4. Both these two applications were filed in the month of September, 2022 of which no reply whatsoever was filed. However, an application under Order 22 Rule 3 & 9 read with Section 151, CPC was filed in the month of November, 2022 for substitution of legal representatives of the deceased appellant. No reply to the application for dismissal of the appeal on account of non-compliance of the interim order was filed even then.

5. Today, learned counsel for the appellant, when posed with a query about the deposit of arrears of mesne profit in pursuance to the interim order, he expressed his ignorance about the same.

6. The applications were filed by the respondent in the month of September, 2022.

The application for substitution of the legal representatives has been filed by the appellant in the month of November, 2022 and at that point of time also no reply/statement to the effect that the arrears of mesne profit have been paid, has been made.

7. In view of the above facts, it is clear on record that compliance of the interim order dated 07.03.2008 has not been made by the appellant.

Consequently, the interim order dated 07.03.2008, which was a conditional one, has *ipso facto* ceased to exist. Needless to observe that the respondent is at liberty to execute the impugned judgment and decree with immediate effect.

(REKHA BORANA),J