

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
JODHPUR**

S.B. Civil First Appeal No. 144/2013

Chela Ram

----Appellant

Versus

Lrs.of Preetam Singh And Ors.

-----Respondent

For Appellant(s) : Mr. B.M. Agarwal.

For Respondent(s) : Mr. Bhanwar Singh Sisodia.

HON'BLE MR. JUSTICE ARUN BHANSALI

Order

03/07/2018

An application has been filed by the appellant under Order XLI Rule 5 CPC seeking payment of mesne profit during pendency of the present appeal.

A perusal of the record indicates that the suit filed by the plaintiffs–respondents seeking specific performance of the contract was decreed by the trial court and feeling aggrieved, the present appeal has been filed.

By interim order dated 10.3.2014, after hearing the parties the decree to the extent of grant of specific performance passed by the trial court, was ordered to remain stayed, however, the parties were directed to maintain status quo regarding the possession of the suit property during pendency of the appeal and admittedly, the respondents-plaintiffs are in possession of the suit property.

In view of the fact that the suit filed by the plaintiffs already stand decreed and the appellant is in appeal against the said decree, no case for award of any mesne profit during pendency of

the present appeal is made out. The application has no substance, the same is, therefore, dismissed.

However, looking to the nature of dispute raised in the present appeal, the record of the trial court be summoned and the matter be listed for hearing as soon as the record is received.

(ARUN BHANSALI),J.

Sumit-25

