



HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR 2025:RJ-JD:30709

S.B. Civil First Appeal No. 131 / 2016

Smt. Maya Devi

----Appellant

Versus

Vinod Kumar & Anr.

----Respondent

Connected With

S.B. Civil First Appeal No. 246 / 2016

For Appellant(s) : Mr. S.L. Jain

For Respondent(s) : Mr. V.K. Aggarwal

JUSTICE DINESH MEHTA

Order

13/03/2018

On perusal of the impugned judgment dated 13.04.2016, this Court finds that the learned Trial Court has despite recording a finding that the contentious property belonged to the deceased husband of the plaintiff, has dismissed the suit filed by the appellant - plaintiff essentially for the reason that the plaintiff herself did not come in the witness box to prove her case. Simultaneously, the cross suit filed by the defendants, seeking relief of declaration of title on the basis of adverse possession has also been rejected by the Trial Court.

In view of the above, it is clear that the Trial Court has found the title of the property to be vesting in the plaintiff – appellant while finding the defendants to be in possession of the property.

After hearing learned counsel for the parties while



maintaining the interim order dated 18.05.2016, with a view to strike the balance of equity and to protect interest of the appellant, this Court deems it appropriate to protect the possession of the respondents, subject to payment of Rs.1,000/- per month, as mesne profit.

The payment of Rs.1,000/- shall be deposited by the respondents on or before 7th day of each month and first such payment shall be made on 07.05.2018.

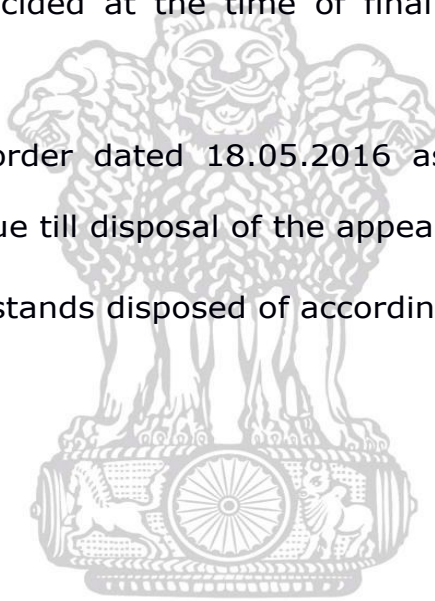
It is however, made clear that the rights of rival parties in relation to the mesne profit deposited pursuant to the order instant shall be decided at the time of final adjudication of the present appeal.

The interim order dated 18.05.2016 as well as the order instant shall continue till disposal of the appeal.

Stay petition stands disposed of accordingly.

(DINESH MEHTA), J.

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