

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Second Appeal No. 13/2016

Mehrajuddin And Another

----Appellant

Versus

Mehrajuddin Alias Bhuriya And Another

----Respondent

For Appellant(s)	:	Mr. Syed Saadat Ali with Ms. Uzma Ilyas, Ms. Aafreen Rizvi, Ms. Anshul Mathur and Mr. Nadeem Qadeer
For Respondent(s)	:	Mr. Shamsuddin Ansari

HON'BLE MR. JUSTICE ASHOK KUMAR JAIN

Order

03/04/2025

1. Considered application No.1/2024 filed under Order XLI Rule 5 of CPC for determination of mesne profit.
2. Instant second appeal preferred by appellant-defendants was admitted by a Coordinate Bench of this Court on 18.02.2016 and the Court has directed maintenance of status quo till disposal of the appeal.
3. Now an application for mesne profit is filed by respondent-plaintiff on the ground that his decree for possession was stayed by this Hon'ble Court and relief of possession was delayed because of stay granted by this Hon'ble Court.
4. Learned counsel for respondent submits that the market rate as on today is higher than ₹20,000/- per month, so plaintiff is entitled for mesne profit, which was initially assessed by the First Appellate Court as ₹12,000/- per month.

5. Learned counsel for appellant opposed the arguments advanced by learned counsel for respondent and he submits that the appellant has claimed parallel title over the suit property and he has a strong case as compare to respondent-plaintiff. He further submits that the Appellate Court has already determined ₹12,000/- per month and now respondent-plaintiff has claimed ₹15,000/- per month as mesne profit.

6. Having considered the judgment in case of **M/s. Atma Ram Properties (P) Ltd. Vs. M/s. Federal Motors Pvt. Ltd. 2004 INSC 708**, I am of considered view that respondent-plaintiff is entitled for mesne profit. The plaintiff has claimed ₹15,000/- per month as mense profit, which was initially determined by the First Appellate Court as ₹12,000/- per month on 07.11.2015.

7. Having considered aforesaid, the mesne profit is determined as ₹15,000/- per month and same is payable from the date of filing of application till disposal of the appeal.

8. Accordingly, the application is allowed and same is disposed of.

9. List for hearing in the month of September, 2025.

(ASHOK KUMAR JAIN),J