2026 INSC 1240

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 9668-9669 OF 2013

BHARAT BHUSHAN JAIN (DEAD) THROUGH LRS. AND OTHERS ETC. ... **APPELLANT(S)**

VERSUS

M/S GOODYEAR INDIA LTD. AND ANOTHER ... **RESPONDENT(S)**

J U D G M E N T

PRASHANT KUMAR MISHRA, J.

1. The present Appeals arise out of a long-standing landlord-tenant dispute concerning premises bearing No. XI/4239-A/2 (Plot No. 3A), 1, Ansari Road, Daryaganj, New Delhi, owned by the appellants and originally let out to the respondent no. 1, M/s Goodyear India Ltd. Although the litigation was instituted seeking both recovery of possession of the suit premises and damages for its continued use and occupation after termination of the tenancy, the decree for possession has long since attained finality. The controversy which now falls for consideration is confined to the determination of mesne profits payable by the respondent no. 1-tenant for its continued occupation of the premises after the tenancy stood terminated, and, more particularly, the correctness of the rate of mesne profits and interest as

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Reason:

determined by the High Court of Delhi[1] in the impugned judgment dated 11.08.2011 passed in RSA No. 186 of 2010 and RSA No. 187 of 2010.

2. The original suit[2] was instituted in the year 1990 by Late Shri Prem Chandra Jain, Smt. Kund Prabha Jain and Smt. Swayam Prabha Jain, whose legal representatives are presently on record as the appellants, seeking recovery of possession of the suit property after termination of the respondent no. 1's tenancy with effect from midnight of 31.12.1989. Besides recovery of possession, the plaintiffs claimed damages for use and occupation at the rate of Rs. 1,47,500/- per month (equivalent to Rs. 4,916.67 per day) with effect from 02.01.1990 till delivery of vacant possession, together with interest at the rate of 15% per annum. During the course of the trial, both parties led evidence, including on the issue relating to the determination of damages for use and occupation.

3. By judgment and decree dated 22.12.1998, the learned Trial Court decreed the suit for recovery of possession in favour of the plaintiffs. Insofar as the claim for damages for the single day preceding the institution of the suit was concerned, the Trial Court held that the evidence adduced by the plaintiffs was insufficient to establish that the premises could have been let out for a single day at the rate claimed and, consequently, declined to grant the said relief. However, the Trial Court considered it appropriate to pass a preliminary decree under Order XX Rule 12 of the Code of Civil Procedure, 1908[3], directing that a separate inquiry be conducted for determination of the

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[1] For short, 'High Court'
[2] Earlier Suit No. 41/1990 and later renumbered as Suit No. 78/1996
[3] For short, 'CPC'

pendent lite and future mesne profits payable to the plaintiffs. Thus, while the decree for possession stood adjudicated by the judgment dated 22.12.1998, the quantification of mesne profits was expressly left open for determination in subsequent proceedings.

4. The respondent no. 1-tenant questioned the decree for possession by filing RFA No. 318 of 1999 before the High Court. The appeal came to be dismissed by judgment dated 23.11.2000, affirming the decree passed by the Trial Court. The respondent no. 1 thereafter preferred SLP (C) No. 3879 of 2001 before this Court, which was dismissed in *limine* on 19.03.2001. Consequently, the decree for possession attained finality and the *lis* between the parties thereafter entered a second stage, confined exclusively to the inquiry contemplated under Order XX Rule 12 CPC for determination of mesne profits.

5. Pursuant to the preliminary decree, the appellants, along with the other legal representatives of the original plaintiffs, initiated proceedings[4] under Order XX Rule 12 CPC before Trial Court seeking determination of mesne profits payable by the respondent no. 1. By judgment and decree dated 30.04.2004, the Trial Court rejected the respondent no.1's plea of res judicata and held the proceedings under Order XX Rule 12 CPC to be maintainable. On the merits of the inquiry, the Trial Court determined mesne profits at the rate of Rs. 22/- per square foot per month in respect of the carpet area of the ground floor and Rs. 11/- per square foot per month in respect of the carpet area of the mezzanine floor, together with interest at the rate of 15% per

[4] M-10/2002 filed in Suit No. 78/1996

annum. Certain clerical errors in the decree were thereafter corrected by orders dated 24.05.2004 and 23.11.2004, resulting in the issuance of amended decrees.

6. Aggrieved by the determination of mesne profits, the respondent no. 1 preferred RCA No. 40 of 2004, subsequently renumbered as RCA No. 9 of 2009, before the learned Additional District Judge[5]. The appellants, in turn, filed cross-objections contending that the Trial Court ought to have determined mesne profits at the rate of Rs. 30/- per square foot per month for the ground floor and Rs. 15/- per square foot per month for the mezzanine floor on the basis of the covered area of the premises. They further contended that interest formed an integral component of mesne profits and ought to have been awarded from month to month from the respective dates on which each month's mesne profits became due. By judgment and decree dated 12.07.2010, the learned First Appellate Court allowed the appeal preferred by the respondent no. 1, set aside the judgment and decrees passed by the Trial Court. The First Appellate Court found that the Trial Court's determination of mesne profits at the rate of Rs. 22/- per square foot per month for the ground floor and Rs. 11/- per square foot per month for the mezzanine floor, on the carpet area, was unsupported by material evidence and was speculative and presumptuous. It also held that the corresponding finding of the Trial Court with respect to interest on mesne profits could not be sustained. The First Appellate Court, however, proceeded on the basis of the admitted rate of rent for determining the mesne profits payable by the respondent.

[5] Hereinafter referred as 'First Appellate Court'

7. Now aggrieved, the appellants thereupon preferred RSA Nos. 186 and 187 of 2010 before the High Court. RSA No. 186 of 2010 related to the determination of mesne profits for the period from 02.01.1990 to 30.03.2001, whereas RSA No. 187 of 2010 pertained to the period from 02.01.1990 to 30.04.1999. In both appeals, the appellants sought restoration of the Trial Court's determination while simultaneously pressing their claim for enhancement of mesne profits to Rs. 30/- per square foot per month for the ground floor and Rs. 15/- per square foot per month for the mezzanine floor, together with interest at the rate of 15% per annum calculated from the respective dates on which each month's mesne profits became payable.

8. By the common judgment dated 11.08.2011, the High Court partly allowed both the second appeals. The High Court held that the First Appellate Court had overlooked a material admission made by the respondent no. 1's own witness (DW-1 P.V. Ramani, officer of respondent no. 1) regarding the prevailing rate of rent in the locality and that such omission constituted a substantial question of law warranting interference under Section 100 of CPC. Proceeding on that basis, the High Court modified the judgment of the First Appellate Court and determined mesne profits at the rate of Rs. 7/- per square foot per month in respect of the ground floor and Rs. 5/- per square foot per month in respect of the mezzanine floor for the respective periods under consideration. The High Court further directed payment of simple interest at the rate of 7.5% per annum from the respective months in which the mesne profits became payable till realization, while providing that, in the event the decretal amount was paid within two months, interest would stand reduced

to 6% per annum. It is against this common judgment of the High Court which has given rise to present appeals before this Court.

9. We have heard the learned counsel for the parties and have perused the material placed on record.

10. The controversy before us lies in a narrow compass. The decree for recovery of possession has attained finality in 2001 and what survives now for consideration is the correctness of the determination of mesne profits by the High Court. It is well settled that mesne profits are compensatory in nature and are intended to recompense the true owner for the loss occasioned by the continued wrongful occupation of his property. Their assessment is not governed by any rigid or inflexible formula. The Court is required to arrive at a fair and reasonable estimate having regard to the nature and location of the property, the prevailing rental value, the evidence adduced by the parties and the attendant circumstances of each case. Equally, such determination is essentially one founded upon appreciation of evidence and, unless shown to be manifestly arbitrary, unsupported by the record or based upon an erroneous application of law, does not ordinarily warrant appellate interference. ***[Refer: Martin and Harris Private Limited and Another vs. Rajendra Mehta and Others[6]]***

11. In the present case, the Trial Court had determined mesne profits at the rate of Rs. 22/- per square foot per month for the ground floor and Rs. 11/- per square foot per month for the mezzanine floor. In arriving at the said

[6] (2022) 8 SCC 527 at para 16, 19 and 20.

determination, considerable reliance was placed upon the evidence relating to the premises let out to Vijaya Bank at No. 2/10, Ansari Road, Daryaganj, where the ground floor and basement had been let at a consolidated rate of Rs. 22/- per square foot. The evidence of the owner of those premises as well as the Branch Manager of Vijaya Bank was relied upon in support of the prevailing rental value.

12. The First Appellate Court, however, examined the comparability of the two properties and found that the premises occupied by the respondent could not simply be equated with the premises let out to Vijaya Bank. The former were old buildings, stated to have been in existence since the 1950s, whereas the Vijaya Bank premises had been constructed in 1972. Further, the suit premises comprised the ground floor and mezzanine floor forming part of the same premises and were being used as a godown, whereas the premises occupied by Vijaya Bank comprised the ground floor and basement and were being used for banking purposes. The First Appellate Court also noticed the absence of any valuation report or municipal valuation establishing similarity between the two properties and the absence of evidence regarding the comparative quality of construction. It was, therefore, not persuaded to treat the rent paid by Vijaya Bank as a reliable comparable for determining the mesne profits of the suit premises.

13. We have carefully examined the reasoning adopted by the High Court. The High Court noticed that, while reversing the determination made by the Trial Court and limiting the grant of mesne profits only at the admitted rate of rent, the First Appellate Court had failed to advert to a material admission

made by the respondent no. 1's own witness (DW-1 P.V. Ramani, officer of respondent no. 1) in his examination-in-chief regarding the prevailing rental value of comparable properties in the locality at the relevant point of time. The respondent no. 1's witness had stated that at the time the tenancy stood terminated, the prevailing rate of rent in the locality ranged between Rs. 5/- and Rs. 8/- per square foot per month. Such omission was not insignificant. The omission to consider a material piece of evidence having a direct bearing on the determination of mesne profits was rightly regarded by the High Court as giving rise to a substantial question of law requiring correction.

14. In the impugned judgment, the High Court did not proceed on the premise that the aforesaid admission of respondent no. 1's witness, by itself, concluded the matter. The admission merely constituted an important circumstance forming part of the evidentiary record. The question was not merely whether the lowest rate which could be said to have been admitted by the respondent should mechanically be adopted. In the impugned judgment, the High Court evaluated the material as a whole and thereafter determined the mesne profits at Rs. 7/- per square foot per month in respect of the ground floor and Rs. 5/- per square foot per month in respect of the mezzanine floor. We find that the determination represents a balanced assessment founded upon the evidence available on record. The High Court did not revive the Trial Court's reliance upon the Vijaya Bank premises, nor did it equate the suit property with the premises occupied by the bank. The rate so determined falls within the evidentiary range disclosed by the respondent's own witness and

cannot be characterised as arbitrary, speculative or based on no evidence so as to warrant interference by this Court.

15. We are, therefore, unable to persuade ourselves to accept the contention that the impugned judgment suffers from any legal infirmity. On the contrary, the High Court corrected the omission committed by the First Appellate Court in overlooking material evidence and thereafter proceeded to determine the mesne profits on a reasonable appreciation of the record. We find neither perversity in the findings recorded nor any misapplication of the governing legal principles.

16. We also find no reason to interfere with the direction relating to interest passed by the High Court. 'Interest' forms an integral component of mesne profits and is intended to compensate the owner for being deprived of the beneficial enjoyment of the property during the period of wrongful occupation.[7] Having regard to the facts and circumstances of the present case, the award of simple interest at the rate of 7.5% per annum, with the concession of a reduced rate of 6% per annum upon payment within the time stipulated by the High Court, does not call for interference.

17. There is yet another aspect which deserves notice. The present litigation traces its origin to the termination of the tenancy with effect from 31.12.1989. The decree for possession attained finality more than two decades ago i.e., in 2001. The impugned judgment was rendered by the High Court on 11.08.2011 and the appeals have remained pending before this Court for

[7] ***Refer:*** Mahant Naryana Dasjee Varu and Others vs. Board of Trustees, The Tirumalai Tirupathi Devasthanam, 1964 SCC OnLine SC 125 at para 13(3).

nearly fifteen years. The controversy now survives only with respect to the quantification of mesne profits on the basis of evidence which has remained unchanged throughout the proceedings. Having independently examined the approach adopted by the High Court and finding no legal error therein, we are of the considered view that the interests of justice would be better served by according finality to a litigation which has engaged the parties for more than three decades.

18. In view of the foregoing discussion, we are satisfied that the impugned judgment represents a fair and reasonable determination of the mesne profits payable by the respondent no. 1 on the basis of the evidence available on record.

19. Consequently, no interference is warranted. The Appeals are ***dismissed***.

.....J.
(PRASHANT KUMAR MISHRA)

.....J.
(N.V. ANJARIA)

NEW DELHI;
NOVEMBER 18, 2026.