

NON REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL No.764 OF 2009
[Arising out of SLP{C} No.12721 of 2008]**

Subhash Chander Kohli & Anr.
Appellants

...

VERSUS

M/s. Indian Sugar & General Industries
Export Import Corporation Ltd.
Respondent

...

ORDER

1. Leave granted.
2. This appeal is directed against the judgment and decree dated 12th of December, 2007 passed by a learned Judge of the High Court of Delhi at New Delhi in RSA No.136 of 2004. By the impugned judgment, the High Court had reduced the mesne profits granted by the courts below from Rs.70,000/-per month to Rs.40,000/- per month, to that extent the orders of the courts below were modified.

3. It is an admitted position, the eviction order has not been challenged. It is only against the reduction of mesne profits per month from Rs.70,000/- to Rs.40,000/- being challenged before us which on grant of leave was heard in the presence of the learned counsel for the parties.
4. In our view, the judgment of the High Court needs to be set aside on a simple ground. That while reducing and modifying the order of the courts below regarding the rate of mesne profits from Rs.70,000/- to Rs.40,000/- per month, the High Court had not dealt with the evidence adduced by the parties and considered the materials on record to come to a conclusion that the orders of the courts below directing Rs.70,000/- per month as mesne profits be modified to the extent of Rs.40,000/- per month payable to the landlord. We do not find from the judgment that any consideration was made by the High Court to reduce the rate of mesne profits from Rs.70,000/- to Rs.40,000/- per month. That being the

position, we set aside the judgment of the High Court and send the case back to it for fresh disposal in accordance with law after giving hearing to the parties and after passing a reasoned order. We request the High Court to dispose of the second appeal within three months from the date of supply of a copy of this order to it.

5. For the reasons aforesaid, the impugned order is set aside and the appeal is allowed to the extent indicated above. There will be no order as to costs.
6. We make it clear that we have not gone into the merits on the question of fixing the rate of mesne profits which shall be decided by the High Court in accordance with law after hearing the parties at length.

.....J.
[Tarun Chatterjee]

New Delhi;
February 06, 2009.

.....J.
[H.L.Dattu]

