



failed to prove its right to seek possession, but has enjoyed the possession on the basis of the decree passed by the first Appellate Court since March 25, 1980, the plaintiff would be liable to pay mesne profits for such possession, to the Municipality. Such mesne profits shall be determined by the learned Executing Court within a period of six months from today."

3. In compliance therewith, the possession has been delivered to the Municipal Council, however, the date on which the possession has been delivered is also in dispute.

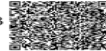
4. The Executing Court has proceeded to assess the amount of *mesne* profit on the basis of notification issued by Municipal Committee with regard to determining the amount of rent payable.

5. Learned counsel representing the appellant contends that without granting opportunity to lead evidence the Executing Court could not assess the amount of *mesne* profit.

6. Learned counsel representing the respondent submits that possession of the public property has been delivered only on 21.07.2023.

7. However, it is not disputed by learned counsel representing the respondent that no opportunity has been given to the parties to lead evidence to prove the amount of *mesne* profit. The words '*mesne* profit' and 'rent' are not synonymous. The charges for unauthorized use and occupation of the premises in common parlance is called '*mesne* profit'. It has to be equivalent to at least market rent.

8. In order to balance the equities, the appellant, who is present in Court, has undertaken to deposit Rs. 5,00,000/- with Municipal Committee within a period of 15 days from today. Once the amount is deposited, the



Executing Court will permit the parties to lead evidence to prove the market rent for the period when the appellant remained in possession. After appreciating the evidence led by both the parties, the Executing Court would proceed to assess the amount from 25.03.1980 till the actual possession was delivered to the Municipal Committee. The amount of Rs. 5,00,000/- would be adjusted while recovering remaining amount from the appellant.

9. The appeal is disposed of.

10. All the pending miscellaneous applications, if any, are also disposed of.

22.04.2025

neeraj

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No