

CR-1569-2015 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CR-1569-2015 (O&M).
Decided on: March 4, 2015.**

M/s Jindal Provision Store and another

..... Petitioner(s)

Versus

Karnail Kaur

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Santosh Sharma, Advocate,
for the petitioners.**

M.M.S. BEDI, J (ORAL)

During pendency of the appeal of a tenant against the ejectment order the Appellate Authority has allowed the application filed by the landlord-respondent for mesne profits and ordered that dispossession of the tenant during pendency of the appeal will remain stayed subject to the tenant-appellant paying mesne profits @ Rs.56,856/- per month. While assessing the said quantum, the Appellate Authority has relied upon the lease deeds of Shop No.380, Sector 37-D, Chandigarh, SCO No.389, Sector 37-D Chandigarh and lease deed of Shop No.223 Sector 36, Chandigarh indicating the monthly rent of above said shops at Rs.1,38,000/-; Rs.1,10,000/ and Rs.1,45,000/- per month respectively.

After ejectment order, the petitioner is in possession of half of the ground floor of shop-cum-office and the other portion is

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with other tenant.

Counsel for the petitioner has placed reliance on a rent agreement EX.P6, pertaining to SCO No.167, Sector 37-C, Chandigarh.

I have gone through the said document which indicates that a tenant who was already in possession of SCO No.167 Sector 37-C, Chandigarh, has been permitted to retain the said premises on rent @ Rs.50,000/- per month with permission to run the jewellery shop. The controversy which is raised before this Court is whether the mesne profits for half of the ground floor of SCO which is being let would be considered @ Rs.56,856/- per month for the whole or @ Rs.1,13,712/- per month for the whole ground floor.

The petitioner has been in possession of the tenanted premises. The rate of rent @ Rs.5,000/- per month was fixed 25 years ago. After ejectment order having been passed on 4.9.2014, the petitioner is required to pay mesne profits for use and occupation of the tenanted premises. Legally it is not permissible for a landlord to demand enhanced rent but after ejectment order having been passed the landlord is entitled to mesne profits to be assessed by the Appellate Authority as per rent of similar premises as is permissible as per judgment in **M/s Amar Ram Properties (P) Private Limited Vs.Federal Motors Pvt. Ltd., 2005 (1) RCR Page 1.** It is felt that the rise in price index along with other various factors is to be kept in mind besides taking into consideration the rent at

present.

Counsel for the petitioner has contended that area of corridor of 173.25 square feet has also been taken into consideration while determining the possession of the tenant. The said observation by the Appellate Authority may be wrong but even if the said factor is ignored, I do not find any ground to interfere in the order passed by the Appellate Authority in determining the mesne profits on the basis of the premises in possession of the petitioner.

Taking into consideration all the above said factors, the order passed by the Appellate Authority determining the mesne profits does not warrant any interference.

The petition is dismissed.

March 4, 2015.
rka

(M.M.S. BEDI)
JUDGE