

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

CR No.1767 of 2015

Date of Decision : 22.7.2015

Rajinder Kumar Rana

.....Petitioner

Versus

Vishal

.....Respondent

CORAM:- HON'BLE MR. JUSTICE GURMIT RAM

Present: Mr. K.S. Dadwal, Advocate for the petitioner.

Mr. Manjul Sud, Advocate for the respondent.

GURMIT RAM, J.

This revision is preferred by the tenant against the order dated 5.2.2015 (Annexure P3) passed by the learned Appellate Authority, Hoshiarpur vide which the tenant was directed to pay the mesne profits @ Rs.4,000/- per month for the use and occupation of the demised shop from the date of order of ejectment.

2. The facts in brief which are relevant for deciding the matter in controversy in this revision are that the respondent herein (landlord) filed an ejectment petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short – *the Act*) seeking eviction of the petitioner herein (tenant) from the demised shop on the ground of non-payment of rent w.e.f. 1.11.2008, ceased to occupy and personal necessity. This petition was accepted by the learned Rent Controller vide order dated 27.10.2014 and the tenant was directed to vacate the demised

shop and hand over its vacant possession to the landlord within a period of two months from the date of passing of the ejectment order.

3. The tenant preferred an appeal against this order before the learned Appellate Authority, Hoshiarpur in which the respondent-landlord filed an application for the assessment of the mesne profits qua the demised shop. Reply to this application was received. The learned Appellate Authority after hearing the learned counsel for both the parties assessed the mesne profits @ Rs.4,000/- per month qua the demised shop, which the tenant was directed to pay from the date of the ejectment order dated 27.10.2014 vide the impugned order dated 5.2.2015.

4. Feeling aggrieved from this order, the tenant has come up before this Court by way of instant revision petition, notice of which was given to the respondent.

5. Learned counsel for both the parties were heard and record as available on the file was also perused.

6. Learned counsel for the petitioner has contended that admittedly in this case the respondent-landlord did not bring on the record any lease deed, rent note etc. before the learned Appellate Authority for assessing the mesne profits qua the demised shop. The learned Appellate Authority has wrongly assessed the mesne profits of the demised shop @ Rs.4,000/- per month, when there was no evidence in the shape of lease deed, rent note etc. to prove the rate of rent prevailing in the concerned locality and as such the impugned order is liable to be set aside. In support of his contention, he has relied upon the case law as laid down by

this Court in **Surinder Kumar Versus Rattan Lal, 2006(3) R.C.R.(Civil) 291.**

7. It is an admitted fact that the landlord did not produce on the record any lease deed, rent note etc. before the Appellate Authority concerned for assessing the mesne profits qua the demised shop. But as per the record, the demised shop is situated in Kharadian Bazar, Hoshiarpur. Then on asking by the Court, the learned counsel for the petitioner herein(tenant) disclosed that the tenant is running the business of jewellery in the demised shop. So, in these circumstances the mesne profits qua the demised shop for its use and occupation by the tenant is assessed to be Rs.2,000/- per month. Consequently, the impugned order is modified accordingly. The petitioner herein (tenant) is directed to clear all the arrears of mesne profits at the above-said rate of Rs.2,000/- per month from the date of passing of the ejectment order till date within a period of one month from today. However, if any amount in the shape of rent has already been paid by the tenant qua the demised shop of the said period, then the same be adjusted while making the payment of arrears of above-said mesne profits.

8. So, this revision petition to the extent above-said is partly accepted and disposed of accordingly.

Copy of this order be sent to the quarter concerned for information and necessary compliance.

22.7.2015
Brij

(GURMIT RAM)
JUDGE

1. To be referred to the Reporters or not? Yes/No
2. Whether the judgment should be reported in the Digest? Yes/No