

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

CR 2939 of 2015

Date of decision:- 30.4.2015

Ravin Kumar Gupta and anr

Petitioner s

vs.

Dr. Bhupinder Singh

Respondent

Present: Mr. BS Jaswal, Advocate.

M.M.S.BEDI,J.

The petitioners have filed the present revision petition aggrieved by the assessment of the mesne profits @ Rs.12,000/- per month to be paid by the petitioners during the pendency of the first appeal before the appellate authority. It is claimed that even if the parameters adopted by the appellate authority are taken into consideration, on calculation the amount of mesne profits would be around Rs.10,000/- per month instead of Rs.12,000/- per month.

I have heard counsel for the petitioners. The assessment of mesne profits is a discretionary order to be passed by the appellate authority, taking into consideration the facts, circumstances and the material, available on the record. It is a settled principle of law that the courts will not fix any excessive amount while deciding the mesne profits, to be paid by a tenant in occupation of the premises after ejectment orders having been passed. The difference of Rs.2000/- per month in the calculation of mesne profits pertaining to the tenanted premises, which is situated in heart of Section 17, Chandigarh, does not appear to be a material controversy, warranting interference in exercise of jurisdiction under Article 227 of the Constitution of India.

Counsel for the petitioners further submits that the period of arrears of rent is also wrongly mentioned by the appellate authority as no amount of rent is payable on account of non existence of any relationship of landlord and tenant. I have considered the contention of counsel for the petitioners and I am of the opinion that it is the inherent jurisdiction of the appellate court to impose any condition. It is, however, observed that any condition imposed by an interim order by the appellate authority, will be subject to the final decision of the appeal. In case, in appeal it is held that there is no relationship of landlord and tenant and that the landlord is not entitled to receive the rent, it will always be open to the tenant to seek the recovery of the amount.

With the above observations, the revision petition is disposed of.

April 30 ,2015
TSM

(M.M.S.BEDI)
JUDGE