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

CR No.3495 of 2015

Date of decision: May 20, 2015

M/s Gagan Kwaliti Works through its Proprietor
Smt. Kailash Wati

.....Petitioner

Versus

Surjit Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sharan Sethi, Advocate
for the petitioner.

SABINA, J

Petitioners have filed this petition challenging the order dated 23.03.2015, whereby mesne profits were assessed by the Appellate Authority.

Learned counsel for the petitioners has submitted that the Appellate Authority has erred in assessing the mesne profits by basing reliance on lease-deed dated 06.02.2014 as the petitioners had taken on rent open area, whereas, the tenant of lease-deed dated 06.02.2014, had taken on rent built-up as well as open court yard.

Respondent had sought ejectment of the petitioners from the premises in question. The ejectment petition filed by the respondent was allowed by the Rent Controller. Aggrieved against the said order, petitioners have preferred an appeal. During the pendency of the appeal, respondent moved an application for determination of mesne profits. Respondent

based reliance on lease-deed dated 06.02.2014 with regard to plot No.76, Industrial Area, Phase-II, Chandigarh. Petitioners had not produced on record any lease-deed/rent deed to counter the lease-deed placed on record by the respondent. The learned Appellate Authority while assessing the mesne profits has taken into consideration that vide lease-deed dated 06.02.2014, 3,300 sq. feet of covered area and 2,000 sq. feet of court yard had been leased out @ ₹2,05,000/- per month. In addition to the same, the tenant was also required to pay service tax. Thus, as per the lease-deed, the rate of rent per sq. feet came to roughly ₹37/- per sq. feet. The learned Appellate Authority while assessing the mesne profits has considered the rate of rent at the rate of ₹20/- per sq. feet, as in the present case, petitioners have taken on rent open area. The said calculation made by the learned Appellate Authority appears to be just and fair. The rate of mesne profits assessed by the learned Appellate Authority cannot be said to be on the higher side. Hence, the mesne profits have been rightly fixed by the learned Appellate Authority at the rate of ₹40,000/- per month.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

May 20, 2015
m.singh