

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 5165 of 2014 (O&M)
Date of Decision: 25.5.2015.

Shiv Parshad Bedi and another

.....Petitioners

Versus

Ashish Sharma and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Arun Jain, Senior Advocate with
Mr. Abhishek Dhull, Advocate
for the petitioners.

Mr. Anuj Raura, Advocate
for the respondents.

SABINA, J.

Petitioners have filed this petition challenging the order dated 8.7.2014.

Learned senior counsel for the petitioners has submitted that the Appellate Authority has erred in fixing the mesne profits at the rate of ₹ 2,00,000/- per month. The Appellate Authority had based reliance on lease deed dated 27.11.2012 qua S.C.F. No. 23, Sector-7, Chandigarh. The said building was presently lying vacant as it was under renovation.

Learned counsel for the respondents, on the other hand, has opposed the petition.

Respondents had sought ejectment of the petitioners

from the premises in question by filing an ejectment petition. The said petition was allowed by the Rent Controller vide order dated 23.12.2013. Aggrieved against the said order, petitioners preferred an appeal. During the pendency of the appeal, the Appellate Authority has assessed the mesne profits at the rate of ₹ 2,00,000/- per month qua the premises in question. Hence, the present petition by the petitioners.

The learned Appellate Authority while assessing the mesne profits has based reliance on lease deed dated 27.11.2012 vide which the ground floor of S.C.F. No. 23, Sector-7, Chandigarh, was leased out at the rate of ₹ 1,40,000/- per month. In the present case, the demised premises bears S.C.O. No. 12, Sector-7-C, Chandigarh. The petitioners are in occupation of the entire building i.e. the ground floor, first floor and second floor. In these circumstances, the mesne profits at the rate of ₹ 2,00,000/- per month qua the entire building assessed by the Appellate Authority by basing reliance on the lease deed dated 27.11.2012 qua the nearby building cannot be said to be on the higher side. The fact that presently S.C.F. No. 23 is lying vacant on account of renovation, is no ground to hold that the mesne profits were not liable to be assessed on the basis of the lease deed dated 27.11.2012. The lease deed dated 27.11.2012 is a registered document and vide the said lease deed, only the ground floor of S.C.F. No. 23 was leased out at the rate of ₹ 1,40,000/- per month. The said lease deed was a relevant document to be taken in consideration while assessing the mesne profits.

No ground for interference by this Court is made out.

Dismissed.

However, petitioners are permitted to deposit the arrears of rent before the Appellate Authority within one month from today.

**(SABINA)
JUDGE**

May 25, 2015
Gurpreet