

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

120

Civil Revision No.1893 of 2016 (O&M)

Date of Decision: March 15, 2016

Devi Sahai

...Petitioner

Versus

Triloch Pathak

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Namit Gautam, Advocate
for the petitioner.

Mr. Hitender Kansal, Advocate
for the caveator-respondent.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Notice of motion.

Mr. Hitender Kansal, Advocate, accepts notice on behalf of the
caveator-respondent.

Challenge in this petition is to the order dated 09.02.2016 passed
by the Appellate Authority, Jalandhar, whereby the mesne profits have been
assessed at ₹20,000/- per month for the demised premises i.e. shop.

It is the contention of the counsel for the petitioner that the
assessment of mesne profits is on the higher side, especially in the light of the
fact that the lease deeds which have been produced by the respondent-landlord
do not pertain to the same locality i.e. Bazar Kalan, Jalandhar. He contends that
the width of the road is quite narrow in the market in question because of which
it is not a very feasible and lucrative business proposition. He contends that
because of the congestion, there is not much business as compared to
Rainik Bazar and Jora Gate, Attari Bazar, Jalandhar. He, thus, contends that the
mesne profits as assessed by the Appellate Authority cannot sustain and
deserves to be reduced.

On a categorical question put by this Court as to whether any lease deed has been produced by the petitioner before the Appellate Authority in support of his contention with regard to the assessment of the mesne profits, the counsel for the petitioner very fairly states that none has been so done and the reasoning and justification assigned for the same is that all the tenancies in the area in question are old and, therefore, lease deeds at present are not available.

Counsel for the respondent, on the other hand, asserts that the order impugned is fully justified as the Appellate Authority has taken into consideration the location and the area and has given benefit of reduction in the rate of rent in comparison to the registered lease deeds produced by the respondent-landlord. Had the Court not appreciated the same, the lease amount as per the lease deeds relied upon by the respondent would have been between ₹40,000/- to ₹50,000/- per month and the Court has in fact reduced it to only ₹20,000/- per month which is the correct prevalent rent in the area. He, therefore, supports the impugned order and prays for dismissal of the revision petition.

I have considered the submissions made by learned counsel for the parties and with their assistance, have gone through the impugned order.

A perusal of the same would show that the Appellate Authority has taken into consideration all the relevant factors for assessing the mesne profits including the location of the market, the breadth of the street and the viability and commercial feasibility of the premises which do not call for any interference by this Court. The impugned order being in accordance with the pleadings of the parties, based upon proper appreciation of the documentary evidence on record i.e. the registered lease deeds, do not

require any interference by this Court.

The revision petition, therefore, being devoid of merit, stands dismissed.

In the light of the dismissal of the petition, the application for stay i.e. CM No.5528-CII of 2016, stands disposed of as infructuous.

March 15, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE