

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

120

Civil Revision No.1950 of 2016 (O&M)

Date of Decision: March 16, 2016

Dharam Pal

...Petitioner

Versus

Ramesh Arora and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. V.K. Sandhir, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this revision petition is to the order dated 19.02.2016 passed by the Appellate Authority, Amritsar, whereby the mesne profits have been fixed on an application moved by the respondent-landlord, at the rate of ₹8,000/- per month for the shop measuring 7½ feet x 18 feet, situated in Katra Kanhaya, Goal Hatti Chowk (Hall Bazar), Amritsar.

It is the contention of learned counsel for the petitioner that there is no registered lease deed which has been produced on record by the respondent-landlord. He contends that mere assertions have been made in the application on the basis of which the Court has proceeded to decide the mesne profits by increasing the same to ₹8,000/- per month, whereas the petitioner was paying rent at the rate of ₹150/- per month since the year 1996. He contends that even the documentary evidence which has been produced by the petitioner-tenant has not been taken into consideration in the right perspective. Assertion has also been made that in the absence of a registered lease deed of the same area or an evaluation report having been obtained with regard to the prevalent rent in the area, the Appellate Authority has wrongly proceeded to decide the case. In support of this contention, he has placed

reliance upon the judgment of the Supreme Court in *Mohammad Ahmad and another Versus Atma Ram Chauhan and others* 2011(2) PLR 711. Support has also been sought from the judgment of this Court in *Vinod Thapar and another Versus Seema Mehra and others* 2015(2) PLR 500 and *Alamjit Singh Mann Versus Amarjeet Singh and others* 2013(1) R.C.R. (Rent) 344.

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

A perusal of the order would show that the Appellate Authority has while assessing the mesne profits duly taken into consideration the copy of rent note dated 16.07.1976, where the rate is fixed at ₹120/- per month and the rent note dated 11.04.1990, where the rent fixed is ₹800/- per month. The two documents, as has been produced by the petitioner, are even prior to the date when the present tenancy had come into existence.

Counsel for the petitioner refers to the photocopies of the rent note dated 12.12.2012 and 30.07.2010 and asserts that they are of the same area.

These do not pertain to the same area and are, therefore, have rightly been ignored by the Appellate Authority. The assertion of the counsel for the petitioner, thus, i.e. the documents, as has been produced by the petitioner, have not been taken into consideration, cannot be accepted.

As regards the rent receipts, the area of the shop has not been detailed therein and, therefore, the Court could not have taken that into consideration. The Court has taken into consideration the fact that a period

of 20 years has elapsed since the purchase of the property by the landlord. The Court has rightly appreciated the pleadings and has proceeded to assess the mesne profits at the rate of ₹8,000/- per month. The judgments on which reliance has been placed lay down the principle, on the basis of which the mesne profits have to be assessed but it has nowhere been held in these judgments that in the absence of the registered documents, the mesne profits cannot be assessed. It may be added here that in the absence of any registered lease deed, the pleadings of the parties have to be taken into consideration and the documents which have been placed on record. In the present case, the Appellate Authority has taken into consideration the documents which have been placed on record by the petitioner and on due evaluation and consideration and broadly applying the principle, as has been laid down by the Supreme Court in *Mohammad Ahmad's case (supra)* has assessed the mesne profits. The principles laid by the Hon'ble Supreme Court when applied would lead this Court also to the same conclusion qua the mesne profits as have been assessed in the present case by the Appellate Authority.

In view of the above, the present revision petition stands dismissed.

In the light of the dismissal of the petition, all the pending applications stand disposed of.

March 16, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE