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1. CR-2009-2015 (O&M)
Date of decision : 23.05.2016

versus

2. CR-3615-2015 (O&M)

versus

Sanjiv Sharma and others Respondents

Present :- Mr. R.K.Chopra, Senior Advocate with
Ms. Promila Nain, Advocate, Ms. Ekta, Advocate and
Mr. Pawan Kumar, Advocate
for the petitioners (CR-2009-2015).

Mr. A.K.Chopra, Senior Advocate with
Mr. G.S.Bhandal, Advocate for
the respondents in CR-2009-2015 and
for the petitioners in CR-3615-2015.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (ORAL)

This order shall dispose of aforesaid two revision petitions by this common order since the issues involved are same. For the sake of convenience the facts are being taken from CR-2009-2015.

These two revisions have been filed against the order of the Appellate Authority fixing mesne profits of Rs.50,000/- per month (over

and above the contract rent).

Both parties are up against this order with the landlord contending that it is too low and the tenant contending that it is too high. The material date is 26.05.2014 on which date the eviction was ordered. The admitted contractual rent is Rs.14,600/- per month. The landlord placed on record a lease deed dated 16.01.2013 as per which the front half of a similar show room fetches rent @Rs.56,100/- per month while the tenant placed on record lease deed of the adjacent show room 26.12.2014 as per which the entire ground floor of a similar showroom was let out at Rs.95,000/- per month. The lease deed placed on record by the landlord is about one year and five months prior to the eviction order in the present case while that placed on record by the tenant is about 7 months subsequent to the date of the eviction order.

From the facts brought out above it can be prima-facie held that in the market in question there is a trend of declining rents. In the circumstances it has also to be held that the rate sought by the landlord is much higher while that sought by the tenant is lower than the existing market rent. This Court in the case of *Angoori Devi and others vs. Smt. Satya Bhama, reported as 2016(2) Law Herald (P&H) 1200*, after discussing the judgments passed in *Atma Ram Properties' case (supra)*, *Anderson Wright's case (supra)*, *Achal Misra's case (supra)*, *Crompton Greaves Ltd. vs. State of Maharashtra, (2005) 11 SCC 547*; *Pradeep Kumar vs. Hajari Lal, (2008) 3 SCC 299*, *Niyaz Ahmad Khan vs. Mahmood Rahmat Ullah Khan and another, 2008(1) R.C.R. 596 (S.C.)*; *Surinder Kumar vs. Rattan Lal, reported as 2006(2) R.C.R. (Rent) 26*;

Chandrakant Dhannu vs. Sharmila Kapur, passed in Writ Petition No.6858 of 2008, decided on 07.01.2009 and The State of Maharashtra and another vs. Super Max International Pvt. Ltd. and others, AIR 2010 SC 722, held as follows:-

“A perusal of the above judgment indicates that the Courts have drawn a balance between the two competing claims by fixing mesne profits at a rate between the contractual rent and the market rent. In the circumstances, it has to be held that there could be no straight jacket formula while fixing the amount of mesne profits in such cases and the Courts would have to be guided by the facts of each case and the judgments extracted above.”

Keeping in view the entire controversy I deem it appropriate to fix the rent and mesne profits at Rs.30,000/- p.m. over and above the contractual rent. However the direction regarding deposit as made by the Appellate Authority shall continue. It transpires that there was a stay of the operation of the impugned order in this Court. In the circumstances the tenant has now to deposit two years mesne profits. He is granted 3 months time to make the necessary deposit. It is made clear that future deposits shall be put in a recurring deposit and the arrears upto date within 3 months. Both the deposits are to be made in a nationalized bank. It is stated that there is a slight dispute about the arrears of contractual rent also. It is clarified that arrears if any will have to be deposited within one month.

Petition stands disposed of in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

23.05.2016
Pooja sharma-I

(AJAY TEWARI)
JUDGE