

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

129

Civil Revision No.4136 of 2016 (O&M)

Date of Decision: July 04, 2016

Lalita Parshad

...Petitioner

Versus

Vashishat @ Vishishat (since deceased) through LR

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Maninder Jeet Singh Cheema, Advocate
for the applicant-petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.12915-CII of 2016

Prayer in this application is for exemption from filing the true typed copies of impugned order, Annexures P-1, P-2 and P-3.

Application is allowed.

Exemption from filing the true typed copies of aforesaid documents is granted.

CM No.12917-CII of 2016

Prayer in this application is for permission to place on record documents Annexures P-1 to P-3.

Application is allowed.

Documents Annexures P-1 to P-3 are taken on record subject to just exceptions.

CR No.4136 of 2016

Challenge in this revision petition is to the order dated 27.04.2016 passed by the Appellate Authority, Chandigarh, wherein an application for assessment of mesne profits filed by the respondent-landlord

has been decided by assessing the mesne profits as ₹5,000/- for a shop measuring 8½ feet x 20 feet situated in village Burail, Sector 45, Chandigarh.

2. It is the contention of learned counsel for the petitioner that the assessment of the mesne profits is much higher than the actual rent prevalent in the area where the shop is located. His further contention is that the Appellate Authority has assessed the rent at ₹250/- which is accepted by the counsel for the landlord in the prior litigation between the same parties. He, thus, contends that the impugned order cannot sustain.

3. I have considered the submissions made by learned counsel for the petitioner and with his able assistance, have gone through the impugned order but do not find myself in agreement with the contentions as raised by the counsel for the petitioner.

4. Counsel for the petitioner has failed to appreciate that there is a distinction between the rent and the mesne profits. Rent primarily is relatable to the agreement between the parties, whereas in the mesne profits, a person is holding the premises without any legal authority and for the use of the said premises, he is compensating the owner/landlord. In the present case, an eviction order has been passed by the Rent Controller against the petitioner which has been challenged by him in appeal. The said appeal is pending before the Appellate Authority and it is, at this stage, that the application for assessment of mesne profits has been moved by the landlord. On consideration of the pleadings and the evidence, which has been brought on record, the Court has proceeded to opine that the commercial premises

measuring 8½ feet x 20 feet in village Burail, Sector 45, Chandigarh, would fetch ₹5,000/- per month at least.

5. The assessment, as has been made, in the considered opinion of this Court, is fully justified which do not call for any interference. The order, therefore, is in accordance with law.

6. Finding no merit in the present revision petition, the same stands dismissed.

7. In the light of dismissal of the revision petition, the application for stay i.e. CM No.12916-CII of 2016, stands disposed of as infructuous.

July 04, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE