

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

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Civil Revision No.4831 of 2016 (O&M)
Date of Decision: August 02, 2016

Balwant Rai

...Petitioner

Versus

Jawahar Lal Sharma

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Manish Jain, Advocate
for the applicant-petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.14753-CII of 2016

Prayer in this application is for placing on record the additional evidence which has been filed by the applicant-petitioner with a prayer that the same could not be produced, although the same was handed over to the counsel for the applicant-petitioner before the trial Court.

The document which is being sought to be placed on record is a photocopy only and is not an original document and, therefore, it cannot *ipso facto* be taken into evidence. That apart, the applicant-petitioner had to be vigilant enough to have taken all care and precaution to place the document on record, on which reliance was being sought to be made which unfortunately has not been done by the applicant-petitioner and, therefore, the present application cannot be accepted. The same stands dismissed.

CR No.4831 of 2016

Challenge in this revision petition is to the order dated 02.07.2016 (Annexure P-1) passed by the Appellate Authority, Bathinda, on an application moved by the respondent-landlord for fixing the mesne

profits regarding the shop which measures 8 feet x 14 feet of which eviction order has been passed by the Rent Controller, Bathinda, against the petitioner-tenant.

2. It is the contention of learned counsel for the petitioner that because of non-production of the documents which indicated the prevailing rate of rent in the locality, where the shop is situated, despite those documents having been supplied to the counsel, the petitioner has suffered. He contends that the prevalent market rent in the locality as of today is about ₹1,000/- per month and in support of this contention, he has placed reliance upon the receipt dated 10.03.2014 (Annexure P-5) which is of the same premises. He, thus, contends that the assessment, as has been made of the mesne profits at the rate of ₹8,500/-, is totally unjustified and cannot be accepted to be the present market rent. His further submission is that the petitioner would not be in a position to make such a huge payment, especially when the mesne profits as assessed is unrealistic and nothing credible has been brought on record by the respondent-landlord indicating such a high prevalent market rent. He, thus, prays that the impugned order may be set aside.

3. I have considered the submissions made by learned counsel for the petitioner but do not find myself in agreement with the submissions as put forth by the counsel.

4. Unfortunately for the petitioner, no document was placed before the Appellate Authority in support of the factum which would indicate the prevailing rate of rent in the area. It is not in dispute that the area of the shop is 8 feet x 14 feet which is quite a sizeable area. Apart from

that, the photographs which have been placed on record, indicate that the shop is located where it cannot be said that it is an isolated place. The receipt on which reliance has been placed, does not indicate as to when the tenancy had come into existence. If the tenancy is old as is being stated by the petitioner i.e. of the same period as that of the petitioner which is of the year 1976, the amount of ₹1,000/- per month is rather unjustified and cannot be accepted to be the prevalent market rent. The evidence which has been led by the respondent-landlord to the contrary indicates the position with regard to the rent prevalent in the area which has been rightly evaluated, considered and a decision taken thereon by the Appellate Authority keeping in light the principles, as has been laid down by the Hon'ble Supreme Court as also this Court.

5. There being no illegality in the order dated 02.07.2016 passed by the Appellate Authority, Bathinda, the said order is upheld.

6. The present revision petition, therefore, stands dismissed.

August 02, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No