

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

**C.M. NO.15321 CII OF 2016 &
CIVIL REVISION NO.4969 OF 2016
DATE OF DECISION: AUGUST 05, 2016**

Gurvinder Singh

.....Petitioner

VERSUS

Smt.Mohinder Kaur (since deceased) through L.Rs

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Premjit Kalia, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this revision petition is to the order dated 05.07.2016 passed by the Appellate Authority, Amritsar, whereby an application for mesne profits, as assessed, has been challenged on the ground that it is on higher side, especially keeping in view the fact that the demised premises is only a store (measuring 19 ft. in length and 12 ft. in width) with the plinth level lower than the road and that too on a bye-lane and not on the main road.

It is the contention of learned counsel for the petitioner that the petitioner had taken the demised premises on rent @ ₹50/- per month with effect from the year 1968. He further contends that in the said premises, which is only a store from where, the petitioner is not generating any income as such cannot be compared as has been done with the lease deed of

an adjacent shop and that too of the respondent landlord, which is not tenable. His next contention is that the said shop was let off in the year 2011 but in an eviction petition, which has been filed on the ground of non-payment of rent, the tenant has not contested the same and has, therefore, led to passing of eviction order. He, thus, contends that it appears to be a connivance between the respondent-landlord and the tenant and with a malafide intention and such a lease deed has been entered into, depicting the lease amount on a higher monthly rent of ₹6,000/- per month for a shop measuring 6 ft. x 10 ft. and 3 inches. He, thus, contends that the amount as assessed at the rate ₹10,000/- as mesne profits per month of the demised premises from the date of passing of the eviction order i.e. 26.02.2016 is not sustainable and deserves to be reduced to ₹5,000/- per month. He, thus, contends that the present revision petition may be accordingly allowed.

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

A perusal of the order would show that the petitioner has not placed anything on record in the form of a lease deed or rent deed, which would indicate the rent as was prevalent in the area where the demises premises is located, to substantiate his contention. It is also not in dispute that the lease deed dated 06.09.2011 at a monthly rent of ₹6,000/- per month with a clause to increase the rent at the rate of 5% after every three years is of a shop, which is adjacent to the demised premises.

On the other side, respondent-landlady has brought on record evidence, which does give an indication with regard to the prevalent rent in the area. The learned Appellate Authority has rightly taken into

consideration the factum that the demised premises was only a godown whereas the lease deed, which has been produced by the respondent-landlady, is that of a shop. That apart, the Rent Controller has taken into consideration the location as well while reducing the rent, which, if taken to be that of a shop and in comparison with the lease deed as has been produced by the respondent-landlady, would have fetched around ₹20,000/- per month. By reducing it half the amount i.e. ₹10,000/- per month, the Appellate Authority has rightly taken into consideration the relevant factors for coming to a conclusion on the mesne profits, which the demised premises would fetch. It would not be out of place to mention here that the demised premises is an area of 19 feet in length and 12 feet in width, which obviously is much large than the shop, lease deed whereof has been brought on record by the respondent-landlady. The order dated 05.07.2016 as passed by the Appellate Authority being fully justified and based on proper appreciation of the pleadings and the evidence brought on record, do not call for any interference by this Court.

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

Since the main revision stands dismissed, C.M. No.15321 CII of 2016, for staying the operation of the impugned order is also dismissed.

**August 05, 2016
khurmi**

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No