

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

245

CR No.1174 of 2017 (O&M)

Date of decision: 27.04.2017

Partap Chand

....Petitioner

Versus

Tejinder Singh Sandhu

...Respondent

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.G.S.Jagpal, Advocate, for the petitioner.

Mr.G.S.Sandhu, Advocate, for the respondent.

Both the parties are present in Court.

G.S. SANDHAWALIA, J. (Oral)

Challenge in the present revision petition, by the petitioner-tenant, is to the order dated 16.01.2017 (Annexure P3), whereby mesne profits @ Rs.5000/- had been fixed by the Appellate Authority, Ludhiana.

On 09.03.2017, it had been contended by counsel for the petitioner that the fixation is without any basis.

Respondent-in-person had put in appearance on that date and had pointed out that since the ejectment order was passed on 09.02.2016, rent has not been paid and there were arrears. Faced with this situation, counsel for the petitioner had submitted that he would get the amount of mesne profits @ Rs.3000/- per month and would also file an affidavit as to when and how much rent was deposited, previously.

On 29.03.2017, it was noticed that the said order was not complied with and the amount of mesne profits for the last year, @ Rs.3000/- per month, had not been brought. Same was the position on 06.04.2017 and last opportunity was granted to clear the arrears till April, 2016, failing which the protection granted was to be vacated. Even today, the said amount of the mesne profits

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@ Rs.3000/- per month from 09.02.2016 onwards have not been brought forth and the petitioner continues to occupy the said shop without payment of any charges.

Thus, even a paltry sum of Rs.40,000/- approximately has also not been paid. Accordingly, this Court is of the opinion that no further indulgence can be granted to the petitioner.

Resultantly, the present revision petition is, hereby, dismissed, keeping in view the judgment of the Apex Court in **Rakesh Wadhawan Vs. M/s. Jagdamba Industrial Corporation, 2002 (1) RCR (Rent) 514** wherein it has been held that the non payment of rent by the tenant, during the proceedings, are also to be taken into consideration.

27.04.2017
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No