IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.1638 of 2017
Date of decision: 07.03.2017

Punjab National Bank ...**Petioner**

Versus

Ashok Goyal and others ...**Respondents**

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

Present: Mr. C.S.Pasricha, Advocate for the petitioner.

Ms. Deepali Puri, Advocate for the respondents.

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G.S.SANDHAWALIA, J. (Oral)

Notice of motion.

Ms. Deepali Puri, Advocate accepts notice and has filed power of attorney on behalf of respondent no.3 and who is stated to be attorney of other respondents.

The petitioner bank is aggrieved against the order dated 13.2.2017 passed by the Appellate Authority, Chandigarh (Annexure P/4) whereby the mesne profits have been assessed at ₹ 4,50,000/- per mensem for the premises bearing SCO No.56, Sector 26, Chandigarh.

The petitioner bank is having around 4700 Sq. ft. area on the ground floor and basement in the said premises. The assessment was made on the basis of registered lease dated 21.4.2010 with the Oriental Bank of Commerce in respect of SCO No.48, Sector 26, Chandigarh which was let out at the rate of ₹ 3,25,000/- per mensem with an increase of 15% on renewal. The claim of the landlord for an amount of ₹ 9,77,500/- per mensem on account of the lease deed dated 1.8.2013 with the State Bank of

Patiala pertaining to a SCO situated in Sector 7, Chandigarh was rejected on the ground that there was a downfall in the prices of real estate and the rent had also decreased.

The reasoning which has been given by the Appellate Authority, Chandigarh on the face of it seems to be justified firstly because premises with the State Bank of Patiala are in Sector 7, Chandigarh though on the same road i.e. Madhya Marg but premises in question are further away from the City Centre of Sector 17. The mesne profits which are now being assessed on the face of it seems to be justified keeping in view the area which is available with the bank. The assessment is based on the principle which has been laid down by the Apex Court in **<u>State of Maharashtra and another Vs. M/s Super Max International Pvt. Ltd. and others</u> 2009 (3) SCC (Civil) 857** and works out approximately under ₹ 100/- per sq. ft.

Counsel for the petitioner-bank submits that the liberty which has been given to withdraw the amount as such during the pendency of appeal would create further complications and no specific reason has been given by the Appellate Authority regarding this aspect. The reasoning has to be mentioned as per the judgment of **Super Max International's** case (supra). It is thus submitted that since the petitioner bank is already paying a sum of ₹ 1,21,875/- less TDS, the amount over and above that should not permitted to be withdrawn as such.

A consensus has thus been arrived at as to the issue which had been raised by Mr. Pasricha, counsel for the petitioner. Ms. Puri on instructions from Mr. Arun Goyal, respondent no.3 one of the co-owner submits that the landlords be permitted to withdraw ₹ 1,25,000/- per month from 1.4.2016 since the eviction order was passed on 31.3.2016 and for the balance amount of ₹ 3,25,000/- per month, the petitioner-bank should prepare a Fixed Deposit Receipt earning maximum interest and the same be deposited with the Rent Controller, Chandigarh by 10th of each month. The arrears will be cleared by 30th March, 2017 which will also be deposited in the form of FDR fetching maximum interest with the Rent Controller, Chandigarh. The same will be subject to the final decision of the appeal.

Counsel for the petitioner-bank is also agreed upon the above terms.

Ordered accordingly.

With the aforesaid modification, the present revision petition is disposed of.

March 07, 2017 **(G.S.SANDHAWALIA)**
Pka **Judge**

Whether speaking/reasoned Yes/No

Whether reportable: Yes/No