

107.

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

Civil Revision-3500-2016 (O&M)

Date of decision:21.03.2017

SATINDER KAUR

... Petitioner

versus

SANTOSH DEVI

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Vikram Preet Arora, Advocate,
for the petitioner.

Mr. Dinesh Arora, Advocate,
for the respondent.

HARI PAL VERMA, J. (Oral)

The petitioner, who is a tenant in a portion of SCO No.60, 1st floor, Sector 46-C, Chandigarh, has filed the present revision petition against the order dated 18.03.2016 passed by learned Appellate Authority, Chandigarh, whereby the application for grant of mesne profits filed by the respondent-landlord was allowed and the petitioner-tenant was directed to pay the mesne profit of ₹27,000/- per month from the date of passing of the order dated 28.08.2015 passed by the Rent Controller. The petitioner-tenant was further directed to deposit the arrears of rent within 10 days from the date of passing of the order dated 18.03.2016.

Learned counsel for the petitioner-tenant has argued that

the learned Appellate Authority has fixed the mesne profits @

₹27,000/- per month without there being any material on record. The petitioner is a tenant in 1/4th of the portion of the first floor, whereas the remaining portion of the building is closed and is not being used for commercial purposes. The remaining portion is not rented. The said portion is already in the possession of the respondent-landlord. Since the remaining portion is lying closed, the learned Appellate Authority was required to consider this important fact as the portion under his possession is not viable for the business purposes. So fixing the mesne profits at such an exorbitant rate is legally not sustainable, particularly when there is no relevant material before the Appellate Authority to fix such an exorbitant rate.

On the other hand, learned counsel for the respondent-landlord has argued that the SCO and the surrounding area is fully developed and it is a business oriented area. Therefore, there is no illegality in fixing the mesne profits @ ₹27,000/- per month. He has further argued that even for the half portion, which has been leased out to the other tenant, the rent has been fixed as ₹45,000/- per month. Therefore, fixing of mesne profits of ₹27,000/- for 1/4th portion of the first floor is absolutely as per the prevalent rate of rent in the vicinity.

At this stage, learned counsel for the petitioner-tenant has made an offer that considering the period of tenancy with the petitioner and to keep harmonial relations with the landlord, the petitioner is ready to offer mesne profits @ 15,000/- per month.

This offer has been accepted by the learned counsel for the respondent-landlord. However, he states that since the respondent-landlord has filed this petition in the year 2011, the Appellate Authority be directed to expedite the proceedings and to decide the appeal at the earliest.

Having heard learned counsel for the parties and considering the fact that there is a consensus as regard the mesne profits, the order dated 18.03.2016 passed by the Appellate Authority, Chandigarh, is modified to the extent that instead of paying mesne profits @ ₹27,000/- per month, the petitioner-tenant would deposit the mesne profits @ ₹15,000/- per month from the date of eviction order i.e. 28.08.2015. The petitioner-tenant would pay the arrears of mesne profits within a period of one month from today. The Appellate Authority shall make endeavour to decide the appeal at the earliest.

The revision petition stands disposed of accordingly.

(HARI PAL VERMA)
JUDGE

21.03.2017
sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No