

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

C.M. No. 23236-CII of 2016 in/and
C.R. No. 741 of 2016 (O & M)
Date of decision:02.02.2017

M/s. Shree Vishnu Processors, Amritsar and anotherPetitioner(s)

Versus

Sudershan Sewa Trust, Amritsar and others ...Respondent(s)

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

Present: None for the petitioners.

Mr. Rohit Sud, Advocate,
for respondent no. 1.

G.S.SANDHAWALIA, J. (Oral)

Notice of motion was issued on 03.02.2016 whereby, a condition was fixed that the petitioners who have been evicted vide order dated 20.08.2014 by the Rent Controller were to deposit the mesne profits @ ₹3.50/- per month per sq. ft. alongwith arrears within a period of 15 days from the said date as per the terms and conditions mentioned by the Appellate Authority vide its order dated 27.07.2015. It was further mentioned that on the failure of the same, the interim order would not operate in favour of the petitioners. The order dated 03.02.2016 reads as under:-

“Counsel for the petitioners, inter alia, contends that the rent deeds which have been produced on record, are unregistered rent deeds, although pertaining to the same premises but relate to small areas only and, therefore, obviously are fetching higher rent than an area which is in possession of the

petitioners. His further contention is that the rent which was being paid was ₹16,400/- as fixed in the year 1996 qua the demised premises with the consent of both the parties and all through the said amount has been paid as rent. The amount as assessed by the Court below as mesne profits is on the higher side and appears to be punitive in nature.

Notice of motion for 25.07.2016 subject to the petitioners depositing the mesne profits at the rate of ₹3.50 paisa per month per square feet tentatively along with arrears, if any, within a period of 15 days from today as per the terms and conditions mentioned by the Appellate Authority in the impugned order dated 27.07.2015, failing which this interim order shall not operate in favour of the petitioners.”

It is pertinent to mention that the petitioners-tenants have come here challenging the order of the Appellate Authority whereby, the mesne profits had been fixed at ₹4.50/- per month per sq. ft. vide the interim order, subject to the deposit. As per office report dated 23.07.2016, no receipt was placed on record showing the deposit of mesne profits and, therefore, notices to respondents were never issued. Thereafter, C.M. No. 23236-CII of 2016 was filed by respondent no. 1 for dismissal of the revision petition for not complying with the order dated 03.02.2016. Notice of the application was issued to the petitioners on 18.11.2016 for 22.11.2016, which was the date fixed in the main case.

No reply has been filed to the said application and none has put in appearance on behalf of the petitioners today, when the main case is also fixed. It is, thus, apparent that the conditional order has not been complied with. It is pointed out by the counsel for respondent no. 1 that

approximately a sum of ₹90,00,000/- was payable, if the amount was to be paid as per the terms and conditions of the Appellate Authority for protection during the pendency of the appeal and similarly, if the benefit of the order dated 03.02.2016 of this Court is to be given, then ₹70,00,000/- was to be paid.

Accordingly, keeping in view the fact that notice of motion order was conditional and deposits have not been made, C.M. No. 23236-CII of 2016 is allowed. The present revision petition is dismissed for non-compliance. Copy of the order be sent to the Rent Controller and Appellate Authority, Amritsar for information.

02.02.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No