

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

CR No. 7322 of 2017 (O&M)

Date of decision: 27.10.2017

Madhu Sudan Kohli and another

...Petitioners

versus

Mahender Kaur

...Respondent

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA.

Present : Mr. Daljit Singh Advocate
for the petitioner.

RAJIV NARAIN RAINA, J. (ORAL)

1. At the outset, learned counsel concedes that he may not have the best case on merits as far as eviction is concerned, however, he prays that sometime may be given to the tenant to vacate the premises. He pleads that the tenants' daughter is a student of class 9th and is very brilliant in her studies and is near topper while reading in Sacred Heart School, Sector 26, Chandigarh. The next important milestone in the academic career of the daughter of the petitioners is the Board examination of 10th class which she has to cover and hence he pleads any disruption in housing may tend to dislodge the rhythm of school while facing tests and examinations and, therefore, he is prepared to give an undertaking that the tenant and his family would vacate the premises by 30th June, 2019. If the prayer is accepted it would give the family and especially the daughter great respite and secure their future.

2. Notice of motion.

3. Mr. Gaurav Mohunta, Advocate puts in appearance on behalf of the respondent and waives service. Respondent-landlady is also present in Court.

4. I have heard learned counsel for the respondent and the landlady. She has been kind enough to relent to the request paying regard to the career of the child and the human condition. Mr. Mohunta likewise relents to it and informs me that in a litigation between the same parties in CR No. 13 of 2017 titled as Madhu Sudan Kohli and another Vs. Mahender Kaur an order had been passed on 26.09.2017 assessing *mesne* profits payable by the tenant at the rate of ₹ 22,000/- (minus the agreed rent i.e. ₹ 7,200/-) per month. That order was passed in a petition against the assessment of *mesne* profits by the Appellate Authority, Chandigarh but it transpired that during its pendency of the case the final order of eviction was passed on 07.12.2013 evicting the tenants.

5. It is now agreed that the *mesne* profits arrangement in my order dated 26.09.2017 should continue till 31.03.2018 and thereafter the tenant would pay enhanced rent at the rate of ₹ 25,000/- per month as was fixed by the Rent Controller vide provisional assessment order dated 10.01.2017.

6. With the arrangement made above, the petition is disposed of. The petitioner No.2 is present in Court on behalf of petitioner No.1-

her husband as well and undertakes to vacate the demised premises by 30.06.2019 and hand over the peaceful possession of the premises to the landlady in the same condition when they took the property on rent. They would not cause any damage to the property at the time of leaving. The petitioning tenants would file an affidavit before the Rent Controller, Chandigarh undertaking to abide by this order and hand over the key of the demised premises on the day fixed above. The same be done within one month from the date of the receipt of the certified copy of this order.

7. Any default of payment of *mesne* profits every month by the 10th day of every calendar month in the interregnum or in the future till delivery of possession would invite eviction automatically.

(RAJIV NARAIN RAINA)
JUDGE

October 27, 2017

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Whether speaking/reasoned : Yes

Whether reportable : No