

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

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CR No.8424 of 2016(O&M)

Date of decision: 02.02.2017

Harjinder Kaur

....Petitioner

Versus

Tarundeep Singh Khurana & another

...Respondents

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

Present: Mr.Anupam Bhardwaj, Advocate, for the petitioner.

G.S. SANDHAWALIA, J. (Oral)

CM-2122-CII-2017

Application for placing on record copy of the rent agreement dated 25.03.2009 as Annexure A-1, is allowed. Same is taken on record, subject to just exceptions. Office to append the same at appropriate place.

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Petitioner-tenant challenges the order dated 03.11.2016, passed by the Appellate Authority, Amritsar, whereby the mesne profits has been fixed of the 2 shops in question having the length of 24.4'x10.6', forming part of the building No.2, Khorana Centre, situated at Lawrence Road, Amritsar, at Rs.10,000/- per month.

The reasoning which weighed with the Appellate Authority was that the premises in question had been leased out to the petitioner @ Rs.2000/- per month w.e.f. 01.06.1990. Various lease agreements had been placed on record by the landlord, showing that the rent of the adjoining portions which were taken into consideration to notice the prevalent market rent at Lawrence Road and also the premises which were part of Khorana Centre. It was noticed that the present petitioner did not file any such rent note or lease deed in support of his version that rent was less, whereas, the landlord was claiming a sum of Rs.30,000/- per month.

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Balancing all the factors and keeping in view the fact that the ejectment order had been passed on 15.02.2016, mesne profits had been fixed. The Appellate Authority also placed reliance upon the judgments passed by the Apex Court in *M/s Atma Ram Properties (P) Ltd. Vs. M/s Federal Motors Pvt. Ltd. 2005 (1) HRR 225* and *M/s Bird Travels (P) Ltd. Vs. Amarjit Kaur & others 2012 (1) HLR 152.*

Counsel for the petitioner, on the contrary, has placed reliance upon the rent agreement dated 25.03.2009 (Annexure A-1), in which, the rent has been fixed at Rs.2600/- per month. It has been argued that the shop in question which is the subject matter of the said rent agreement (Annexure A-1) is of half size and if the same is taken into consideration, Rs.5200/- per month would be appropriate mesne profits.

In the opinion of this Court, the said argument cannot be accepted, at this stage. Ample opportunity was given to the petitioner-tenant while disposing of the application for mesne profits and for staying the operation of the ejectment order. Nothing, at that time, had been placed before the Appellate Authority which was to decide the issue. At this stage, fresh rent agreement cannot be taken into consideration, which is not even registered. The reasoning given by the Appellate Authority is in consonance with the judgment passed by this Court in *Angoori Devi & others Vs. Satya Bhama 2016 (5) RCR (Civil) 1043* that the relevant facts have to be taken into consideration. The date of tenancy and the prevalent rate in the adjoining areas had been duly taken into consideration while fixing the mesne profits. In such circumstances, the findings which have

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been recorded by the Appellate Authority are well justified.

It is further to be noticed that this Court is not sitting as a Court of appeal and the said orders are not liable to be interfered with in revisional jurisdiction. In such circumstances, the order passed does not suffer from any infirmity which would warrant interference. Accordingly, the present revision petition is dismissed in limine.

February 2nd, 2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*