

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No. 904 of 2015 (O & M)

Date of decision: 27.03.2017

Ram Patti and another

....Petitioner(s)

Versus

Susheel Mittar Singh

...Respondent(s)

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

Present: Mr. A.P. Setia, Advocate,
for the petitioners.

Mr. Sandeep Punchhi, Advocate,
for the respondent.

G.S.SANDHAWALIA, J. (Oral)

The present revision petition is directed against the order dated 17.11.2014 (Annexure P-3) whereby, mesne profits @ ₹92,500/- per month were imposed upon the tenant while deciding the main appeal and upholding the order of eviction dated 23.12.2013 (Annexure P-4).

Counsel for the petitioner has argued that the Appellate Authority had as such given the benefit that the recovery of mesne profits is not to be ordered but since the vacation from the shop is from 07.09.2015, the mesne profits at that rate were exorbitant and specially keeping in view the fact that the rent between the parties was only ₹200/-. It is submitted that keeping in view the law on the subject in *M/s. Atma Ram Properties (P) Ltd. vs. M/s. Federal Motors Pvt. Ltd.* and *State of Maharashtra and another vs. M/s. Super Max International Pvt. Ltd. and others, 2009 (9) SCC 772*, the mesne profits are not to be fanciful or a bonanza for the landlord.

On the other hand, counsel for the landlord has submitted that he has instructions from the landlord, who is present in Court, that he would be satisfied even if the mesne profits is reduced to ₹25,000/- so that he can seek recovery of the same from the date of fixing the mesne profits by the appellate authority till the time the possession remained with the tenant i.e. 07.09.2015.

The fact remains that the booth is situated in Sector 9, Chandigarh and the landlord had laid sufficient material in the form of a legal lease deed to show that the rent as such in the said sector, which is situated in northern area and one of the most premium sectors of the city, was to the tune of ₹1,85,000/- of a same size booth. Rather, booth nos. 2 and 3 are situated on the inner side of the market whereas the present booth is on the main road, which is the 'B' (dividing) road of the sector. Accordingly, keeping in view the registered lease deed which was of the two booths of the same type and in the same locality, 50% has been fixed as mesne profits.

No fault as such can be found with the action of the Appellate Authority, which was on the basis of the settled principle that the registered lease deeds are a valid barometer, which has also been held by this Court in ***Surinder Kumar vs. Rattan Lal, 2006 (2) RCR (Rent) 26.*** However, in view of the fact that the tenancy was of the year 1976 and the purpose was to run a meat shop and the rent was only ₹200/- and in view of the concession which has been granted as such by the counsel for the respondent on instructions, this Court is of the opinion that the order is liable to be modified.

Accordingly, the present revision petition is disposed of by

fixing the mesne profits @ ₹25,000/- per month from 17.11.2014 till 07.09.2015. Liberty is given to the landlord to recover the same in an appropriate proceedings.

27.03.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No