

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.2869 of 2018

Date of Decision: 03.05.2018

Deepak Kumar

.....Appellant

Vs.

Vipan Kumar and anr.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Aayush Gupta, Advocate, for the petitioner.

RITU BAHRI, J. (ORAL)

Petitioner has come up in revision under Article 227 of the Constitution of India for setting aside the impugned Order dated 02.04.2018 passed by learned Appellate Authority, Ludhiana, whereby, he has been ordered to pay mesne profits at the rate of Rs.10,000/- per month from 08.01.2018.

Vide ejectment order dated 08.01.2018, petitioner has been evicted from the shop bearing No.B-XX-1344/1 (old) 1813/1(new) situated near gate No.3 of PAU, Maharaj Nagar, Ludhiana and petitioner has been directed to pay arrears of rent at the rate of Rs.4400/- per month w.e.f. 01.09.2016 till the date of passing of the ejectment order i.e. 08.01.2018. A perusal of the ejectment order dated 08.01.2018 (Annexure P-1) shows that shop in question was rented out to the respondent No.1 i.e. Deepak Kumar (petitioner herein) from 01.12.2005 for the period of 11 months for the rent of Rs.4500/- per month along with the house tax and others charges. The ejectment has been ordered on the ground of personal necessity as landlord was to use the same for their own use and occupation as they are running their business under the name and style of M/s Deepak Karyana Store in a rented shop under the landlord Bhupinder Singh @ Rs.1500 per month.

Learned counsel for the appellant has argued that the landlord had placed on record a Rent Deed, whereby, the shop situated at Maharaj Nagar has been rented out for a sum of Rs.33,000/- per month in October, 2010.

Learned counsel for the landlord has further placed on record another Rent

Note dated 15.06.2013, whereby, another shop situated at Maharaj Nagar, Ludhiana is shown to have been rented out at the rate of Rs.25,000/-. He has placed reliance upon Rent Deed , whereby, shop No.B-XX-1889, Maharaj Nagar, Near PAU Gate No.3, Ludhiana was shown to have been rented out on a rent of Rs.33,000/- per month with effect from 01.11.2017. However, the Rent Controller has observed that aforesaid rent deed is in respect of a bigger shop as there is one additional room at the back of the shop. With respect to the rent deed 2013, where rent was fixed Rs.25,000/- per month, the shop was 10 X 16' and 12 mm glass door, one 1.5 ton AC, one drawing room, one wall fan, cable connection fitted glass racks, POP, lighting, cash counter and chair etc. are there in the shop. Even, these rent was not placed on the filed to assess the mesne profit. Learned counsel for the petitioner has argued that these rent notes cannot be made basis for assessing the mesne profit. Learned Rent Controller after considering the fact that the demised shop was rented out in the year 2005 and since then, there has been increase in the values of immovable properties and the corresponding increase in the rentals of such properties, the rental value of the demised shop has taken Rs.10,000/- per month keeping in view that Rs.4400/- rent was fixed in the year 2005 and after 13 years, Rs.10,000/- would be suitable and reasonable rent for the shop in dispute. As such, fixation of mesne profit @ Rs.10,000/- has been ordered to be paid w.e.f. 08.01.2018 onwards every month till the disposal of final appeal is not on the higher side.

So in view of the above, the impugned order dated 02.04.2018 passed by learned Appellate Authority, Ludhiana, does not reflect any material irregularity or perversity which warrant interference. Hence the present revision stands dismissed.

(RITU BAHRI)
JUDGE

03.05.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No