

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

CR No.4070 of 2018 (O&M)
Date of Decision : 02.07.2018

Rakesh Kumar

..... Petitioner

Versus

Kavinder Khanna

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. V.K. Sandhir, Advocate
for the petitioner.

AJAY TEWARI, J. (Oral)

This petition has been filed against the order of the appellate authority allowing an application for mesne profits filed by the respondent. The tenancy is of the year 1999 and the contractual rent was Rs.300/- per month. No material was placed by either of the parties in time before the appellate authority to illustrate what was the prevalent rate of rent in the locality. In the absence of any material the appellate authority fixed Rs.8,000/- per month as mesne profits.

Learned counsel has argued that this is an exorbitant increase. He has also pointed out that at the time when the application was being argued the petitioner had placed on record a license deed of the year 2016, as per which the prevalent rent in the locality in the year 2016 was

Rs.2,200/- per month. In my considered opinion, a document which is handed over to a Court during arguments (and which has not been previously supplied to other party to enable it to react there to) can not be considered by a Court.

In the circumstances, there was no error by the Court in deciding the case as if no material was placed on the record. Once that is so the issue which survives is whether the fixation of mesne profits @ Rs.8,000/- per month in place of the contractual rent of Rs.300/- per month can be considered to be arbitrary. It is not disputed that the original rent was fixed almost two decades ago.

Learned counsel would argue that at the most it should have been increased by 10 times but there is no logic in this argument as well. It can not be lost sight of that fixation of mesne profits is an exercise to be conducted in a summary manner.

However, in the present case the appellate authority has ordered the amount to be paid to the landlord. In *Angoori Devi and others Vs. Satya Bhama 2016 (5) RCR (Civil) 1043* this Court had held that the amount of mesne profits should not be released to the landlord and should be put in a fixed deposit to enure to the benefit of the party which is successful. With this modification the petition is dismissed. The appellate authority is directed to deposit the arrears in a fixed deposit in any nationalized bank and the amount which the petitioner would deposit from time to time, in a recurring deposit in the same bank to enure to the benefit of the party which may be successful in the appeal. The petitioner may now deposit the amount on or before the next date fixed before the appellate

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

02.07.2018
Pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No