

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

**CR-4870-2018 (O&M)
Date of decision:01.08.2018**

Sham Sunder (since deceased) through L.Rs. ... Petitioner

Vs.

Deepak Kapoor & others ... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Anil Chawla, Advocate for the petitioner.

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TEJINDER SINGH DHINDSA, J. (ORAL).

The instant revision is directed against the order dated 03.07.2018 passed by the learned Additional District Judge-cum-Appellate Authority, Amritsar and in terms of which an application filed by the landlord (respondent herein) for assessing mesne profits has been dealt with and amount of Rs.5000/- per month has been determined as mesne profits to be paid by the tenant/present petitioner from the date of passing of the ejectment order.

2. Counsel representing the petitioner would vehemently argue that determination of mesne profits at Rs.5000/- per month is highly excessive and without any basis. It is urged that rent notes had been relied upon by the petitioner before the Appellate Authority which reflected the rent to be Rs.1500/- per month. Further argued that the landlord had placed reliance upon two rent notes reflecting rent between Rs.7500/- to Rs.10,000/- per month but these rent notes were for premises which were much larger in terms of area and as such, even if the stand of the landlord

was to be taken at its face value, the mesne profits for the demised shop could not have been determined at Rs.5000/- per month. In the same limb, Mr. Chawla, learned counsel for the petitioner urges that there was no scope for the Appellate Authority to resort to guess work to determine mesne profits to Rs.5000/-.

3. Having heard counsel for the petitioner at length, this Court is of the considered view that no basis for interference is warranted.

4. It is not in dispute that the demised shop is situated within the municipal corporation limits of the city of Amritsar. Furthermore, the demised premises is being put to commercial use and is situated in Guru Bazar, Amritsar. Even though, the tenant/present petitioner had relied upon two rent notes reflecting the rent to be Rs.1500/- per month but these were pertained to premises of the first floor and not pertaining to the same very locality.

5. To the contrary, landlord had placed reliance upon two rent notes reflecting rent of Rs.10,000/- per month as also Rs.7500/- per month of commercial premises pertaining to the same very locality. Even if the submission made by counsel is to be accepted that such rent notes were of premises which were of a much larger area, yet it cannot be lost sight of that these two rent notes related back to the year 2010 and 2014. The Appellate Authority while determining and assessing mesne profits at Rs.5000/- per month has proportionally reduced the quantum of rent as was reflected in the rent notes relied upon by the landlord.

6. Keeping in view the location of the demised shop i.e. being within the municipal corporation limits of the city of Amritsar i.e. Guru Bazar, Amritsar as also the fact that the same is being put to commercial

use, assessment of mesne profits at the rate of Rs.5000/- per month does not call for any interference.

7. Petition is dismissed.

01.08.2018

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |