

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

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**CR-5818-2018 (O&M)
Date of Decision : 22.10.2018**

Mukesh Kumar Mittal Petitioner

Versus

Asha Jindal and others Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mohd. Yousad, Advocate
for the petitioner.

Mr. Rose Gupta, Advocate
for respondent No.1.

AJAY TEWARI, J. (ORAL)

This petition has been filed against the fixation of mesne profits by the appellate court.

The admitted facts are that the original tenancy is more than 30 years old and the area of the shop is about 30 sq. yards. As per the case of the respondent-landlord a shop in the same locality, the area of which was about 29 sq. yards, was let out on rent @ Rs.13,500/- p.m. It was on the basis of this rent that the mesne profits have been fixed.

Counsel for the petitioner-tenant has argued that the shop to which reference was made by the appellate court is double storied. He has shown a copy of the rent note which was placed on record by the respondent-landlord and it reveals that the said shop was double storied. He has consequently argued that the rate of mesne profits @ 9000/- p.m. is

excessive.

Counsel for the respondent-landlord has defended the order of the appellate court.

In *Angoori Devi and others vs. Smt. Satya Bhama, (2016) 1 RCR (Rent) 588*, this Court has discussed various parameters and drawn a balance between the two competing claims by fixing mesne profits at a rate between the contractual rent and the market rent. Keeping in view the entire conspectus of facts, I deem it appropriate to fix the mesne profit @ Rs.5000/- p.m. Ordered accordingly. The same would be payable from the date of eviction.

Let the arrears of the mesne profits be deposited in the Court within three months. However, the current amount for the month of November, 2018 onwards would be payable in advance by 7th of every month. Out of the entire amount/s, the contractual rent shall be payable to the landlord while the remaining amount be deposited in a long term fixed deposit in any nationalized bank. The amount/s so accumulated would enure to the benefit of the party who would be successful.

Petitions stand disposed of in the above terms.

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

October 22, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No