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

Civil Revision No.6331 of 2017
Date of Decision: April 25, 2018

Beant Kaur ...Petitioner

Versus

Shalimar Paints and others ...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr. Chetan Goel, Advocate for the petitioner.

Mr. D.P.Gupta, Advocate for the respondents.

***

<u>HARINDER SINGH SIDHU, J.</u>

The landlord has filed this revision petition under Section 15 (5) of the East Punjab Urban Rent Restriction Act, 1949 (for short the Act), impugning the order dated 9.8.2017 whereby the mesne profit had been assessed at Rs.30,000/- per month. His contention is that the mesne profits as assessed are abysmally low compared to the prevailing market rent of comparable properties in the vicinity.

The petitioner-landlord filed eviction petition for ejectment of respondent Nos. 1 and 2 from Industrial plot No.30, Industrial Area, Phase I, Chandigarh on the ground of non-payment, misuse and violation of building and other bye-laws. The plot is about 2800 sq ft. The learned Rent Controller Chandigarh vide order dated 22.4.2016 allowed the petition directed the ejectment of the tenant. The tenant preferred appeal. The petitioner filed an application for grant of mesne profit at the rate of Rs.2 lac per month. The the petitioner relied on three registered lease deeds of comparable properties one located in Industrial Area Phase I and two located in Industrial Area Phase II Chandigarh. He further relied on a decision of this Court in Civil Revision No.1095 of 2015 decided on 18.2.2015 titled as M/s Anupam Khanduja and others Vs. Mahesh Chand Jain where mesne profits were assessed at Rs. 75,000/- per month in respect of a plot measuring 1780 sq. ft in Industrial Area Phase I, Chandigarh. The respondents contested the application, but did not annex any lease deed or agreement for determination of the mesne profits. The learned appellate authority held that lease deeds could not be relied upon as two of them pertained to property situated in Industrial Area Phase II, Chandigarh whereas the demised premises in the instant petition was situated in Industrial Area Phase I. Even in respect of Plot No. Industrial Area, Phase I, the Appellate Authority held that it had not been established that the same was similarly situated. But considering the fact that the property was commercial and situated in Chandigarh the mesne profits were fixed at Rs.30,000/- per month.

Mr.Chetan Goel, learned counsel for the petitioner argued that the learned Appellate Authority had erred in not placing reliance on the lease deeds relied upon by the petitioners. Lease deed dated 21.7.2014 was executed between Surinder Kumar Gulati and M/s Saluja Motor, Pvt. Ltd. in respect of Industrial shed No.182, Industrial Area, Phase II, Chandigarh having 5457 sq.ft. RCC covered area and approximately 3544 sq.ft open area which was taken on lease for a period of 10 years from 16.10.2014 to 15.10.2014. The lease amount was fixed at Rs.2,60,000/- per month for the period from 16.10.2014 to 15.9.2015, Rs.2,78,200/- per month for the period from 16.10.2015 to 15.10.2016, Rs.2,97,674/- for the period from

16.10.2016 to 15.10.2017 and Rs.3,18,512/- per month from 16.10.2017 to 15.10.2018 etc.

Lease dated 28.8.2014 was between Harbans Lal Chadha and M/s Berger Paints India Ltd. in respect of office-cum-godown at plot No.823, Industrial Area, Phase II, Chandigarh measuring 9000 sq.ft. super area with 1250 sq.ft. as office area from 1.9.2014 to 31.8.2019 at a monthly rent of Rs.3,20,000/- plus service tax. The rent was to be increased by 5% after every year.

Lease deed dated 20.1.2012 was between Parveen Bindlish and HDFC Bank Ltd.in respect of Plot No.363, Industrial Area Phase I, Chandigarh having an aggregate covered area of 13745 sq.ft comprising 4570 sq.ft at ground floor, 3494 sq.ft. at first floor and 5681 sq.ft in the basement for a period of 27 years on a monthly lease rent of Rs.6, 60,000/- to be increased by 15% after expiry of every three years.

Two of these lease deeds pertain to Industrial plot in Industrial Area Phase-II, Chandigarh. The third lease deed is in respect of plot in Industrial Area Phase-I, Chandigarh. He argued that the demised premises is situated in the commercial hub surrounded by number of commercial complexes i.e. Berkeley Mall, Elante Mall, HDFC Bank Square. The market rent of the demised premises cannot be in any manner less than that in the lease deeds relied upon. Mr. Goel also strongly relied upon the decision in Civil Revision No.1095 of 2015 (supra) where mesne profits assessed by the appellate authority at Rs.75,000/- per month w.e.f. 31.8.2014 in respect of 1780 sq.ft. on the ground floor of plot No.163, Industrial Area Phase I Chandigarh were approved. In determining the aforesaid mesne profit, the learned Appellate Authority had relied on lease deeds of various plots situated in Industrial Area Phase I, Chandigarh. He argued that in view of its location, the rent of the present plot cannot be in any manner less than that of plot No.163, Industrial Area, Phase-I, Chandigarh.

Mr. Gupta Ld. Counsel for the respondents on the other hand contended that mesne profits have to be reasonable and ought not be excessive or punitive forcing the tenant to vacate the premises. He further argued that post de-monetization there has been a drastic reduction in rents and hence the lease deeds relied on by the petitioner which are all prior to de-monetization cannot be relied upon to assess the current market rent. However he could not refer to any lease deed or any other material to help better assess the mesne profits.

It is well settled that mesne profits can be determined on the basis of recent registered lease deeds in the locality as evidencing the amount of rent payable. The lease deeds in respect of industrial plots in Industrial area Phase-I and II being the lease deeds of comparable property in a comparable location can certainly be made the basis for assessing mesne profits. The Ld. Appellate Authority was wrong in wholly discarding them.

Taking note of the lease deeds referred to above as also the mesne profit approved by this Court in CR 1095 of 2015 in my view, the mesne profit in respect of the demised premises can fairly be assessed at Rs.1,25,000/- per month.

Accordingly, this revision is allowed. The impugned order of the Appellate Authority is modified to the extent that the mesne profits in respect of the demised property is assessed at Rs.1,25,000/- per month instead of Rs.30,000/- per month. The arrears of mesne profit accruing thereby w.e.f. date of the passing of the order of eviction i.e., 22.4.2016 till date be deposited on or before 30.06.2018. The respondent- tenant shall continue to deposit the future monthly mesne profits before the 10th day of each month.

25.4.2018 **(HARINDER SINGH SIDHU)**
sd **JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No