

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

C.R No. 8305 of 2017 (O&M)
Date of decision : August 27, 2018

Ramesh Kumar and another

..... Petitioners

v.

Harjit Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Ms. Supriya Garg, Advocate
for the petitioners.

Mr. Vaibhav Sehgal, Advocate
for the respondent.

Ajay Tewari, J (Oral)

This petition has been filed against the order dated 9.10.2017 granting conditional stay to the petitioners on payment of mesne profits.

The respondent had filed a petition for eviction against the petitioners on the ground of non payment of rent @ ₹ 30,000/- per month.

The case of the petitioners, on the other hand, was that the rent was only ₹ 8,000/- per month.

The Rent Controller assessed the provisional rent @ 30,000/- per month and, since the petitioners did not deposit the amount, ordered their eviction. The petitioners filed an appeal and also prayed for stay. The Appellate Authority held that the respondent was entitled to rent @ ₹ 30,000/- (as per the order of provisional assessment made by the Rent Controller), and ₹ 35,000/- as mesne profits.

Counsel for the respondent has fairly accepted that the intention of the Appellate Authority was to fix the mesne profits only at ₹ 5,000/- per month and not ₹ 35,000/- per month.

Counsel for the petitioners has argued that even fixing of rent at ₹ 30,000/- per month is illegal. In my opinion, this is the precise argument which is before the Appellate Authority and it would not be appropriate for this Court to comment on that aspect and leave it to the Appellate Authority to give a finding thereon. Once that is behind us, then the fixation of mesne profits @ ₹ 5,000/- per month cannot be taken to be excessive by any standard, even if no material has been placed before the Appellate Authority for this purpose. The only clarification which has to be made in terms of the decision of this Court in Angoori Devi and others vs Smt. Satya Bhama, CM No.2343 CII of 2014 in CR No.6248 of 2011, decided on 6.4.2016, is that the amount of ₹ 5,000/- per month which is the mesne profit component would be deposited in a fixed/recurring deposit in any nationalized bank to enure to the benefit of the party which may be successful in this litigation.

Counsel for the petitioners points out that there was an interim order which was passed by this Court on 28.11.2017, as per which the petitioners had to deposit only ₹ 18,000/- per month and, therefore, now they would have to deposit a huge amount, and prays that they may be granted some reasonable time to deposit the amount.

I find justification in this prayer and grants two months' time to the petitioners to make the necessary deposit. This petition stands disposed of in the above terms.

Since the main case has been decided, the pending C.Ms, if

any, also stand disposed of.

August 27, 2018

`kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No