IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 54 of 2019 (O&M)
Date of Decision:10.01.2019

Mukesh Chand ......Petitioner

Versus

Gurcharan Singh ...... Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. M.K.Singla, Advocate
for the petitioner.

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LISA GILL, J.

Petitioner is aggrieved of order dated 15.11.2018, whereby *mesne* profits at the rate of ₹6500/- per month have been assessed by the learned Appellate Authority Sangrur.

Respondent-landlord preferred a petition under Section 13 of the East Punjab Urban Rent Restriction Act seeking ejectment of the petitioner from the demised premises, which was allowed by the learned Rent Controller on 02.11.2017. Appeal was filed by the present petitioner. Application for fixing of *mesne* profits was earlier decided on 11.05.2018, whereby *mesne* profits to the tune of ₹6500/- was ordered by the learned Appellate Authority, Sangrur. Said order was challenged by the petitioner in CR No. 4304 of 2018 while submitting that no opportunity was afforded to the petitioner/tenant to present any document in his favour to reflect the market rent in the area. The said revision petition was disposed of on 08.10.2018 (Annexure P-4) by this Court while directing the learned Appellate Authority, Sangrur to afford one effective opportunity to the petitioner as well as the respondent in this respect and thereafter assess the *mesne* profits afresh in accordance with law.

Due opportunity was afforded in terms of order dated 08.10.2018 in CR No. 4304 of 2018. Learned Appellate Authority, Sangrur, vide impugned order dated 15.11.2018 while taking note of the facts and circumstances of the case has assessed *mesne* profits at the rate of ₹6500/- per month. ₹1000/- has been directed to be paid to the landlord and ₹5500/- to be deposited with the Rent Controller, Sangrur on a monthly basis during the pendency of the appeal, to be finally credited to the party succeeding in the appeal. It is clearly mentioned in the impugned order that the demised premises are in the main commercial area of Sangrur i.e., opposite the HDFC Bank, Dhuri Gate, Sangrur. It is further noticed that *mesne* profits could not be assessed on the basis of the lease agreement dated 30.08.2017 (Mark A) relied upon by the landlord wherein rent of the premises therein is ₹20,000/- per month. The present shop is mentioned to be 119.5 square feet. At the same time, learned Appellate Authority, Sangrur has rightly held that rate of rent cannot be assessed as ₹1200/- per month in terms of the testimony of RW-1-Bir Sukhpal Singh, Clerk SDM Office, Sangrur, as the rent mentioned by RW-1 is in respect to 16 shops in Gurunanak Sarai Managing Committee, Sangrur which were rented out initially in the year 1971 for a sum of ₹60/- per month. The said 16 shops were near the Barnala Chowk (Mahavir Chowk).

Contention of learned counsel for the petitioner that the learned Appellate Authority, Sangrur, has wrongly relied upon the lease agreement-Mark A, is clearly misplaced. Mark A, is a lease agreement between one Smt. Asha Rani and Blue Dart Express Limited in respect to an area of 210

Sq. yards on the ground floor of premises nearby, rented out for a sum of ₹18,000/- per month for the period 14.07.2017 to 31.03.2018 and for ₹20,000/- w.e.f., 01.04.2018 to 13.07.2020. A perusal of the impugned order dated 15.11.2018 reveals that this document has not been relied upon by the learned Appellate Authority, for determining rent of the demised premises. It is specifically mentioned in order dated 15.11.2018, that apart from the fact that the carpet area of the shop in question is different, there is probably more footfall in the office of Blue Dart Express when compared to a shop run by a private person. Moreover, there was nothing to indicate the age of the construction of the shop leased out as per mark- A, whereas the demised shop was rented out in the year 1991. It has however been rightly noted that the demised shop is on the main road in the commercial area and is opposite to the shop given on lease as per mark- A. It is in this situation that the rent/*mesne* profits has been assessed at the rate of ₹6500/- per month.

At this stage, it is pertinent to note that after opportunity was afforded by this Court to the petitioner to produce any document to indicate the market rent of the premises, RW-1-Bir-Sukhpal Singh, Clerk of the SDM Office, Sangrur was examined by the petitioner to indicate sixteen (16) shops at Gurunanak Sarai, rented out by the authorities, initially in 1971, for a sum of ₹60/- per month and thereafter at the rate ₹1200/- per month since 2014 with a condition of 10% enhancement every year. The said shops are old shops in the area of Gurunanak Sarai which falls towards the outer side of Sangrur. It is rightly observed by the learned Appellate Authority, Sangrur that there is nothing on record to indicate that the shops as mentioned by RW-1-Bir Sukhpal Singh, are situated near the demised premises. Therefore, the same cannot be a parameter for fixing the rent/*mesne* profits of the demised premises which are admittedly located in the main commercial area opposite HDFC Bank, Dhuri Gate Sangrur. Clearly rent for the abovesaid sixteen (16) shops is not reflective of the market rent of the demised premises. Thus, provisional rent/*mesne* profits has been rightly assessed by the learned Appellate Authority, Sangrur.

No other argument has been raised.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned order dated 15.11.2018, passed by the learned Appellate Authority, Sangrur, which calls for interference by this Court in exercise of revisional jurisdiction.

Petition is accordingly dismissed with no order as to cost.

[LISA GILL]
Judge

10.01.2019
s.khan

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.