

CR No.2011 of 2017

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

CR No.2011 of 2017
Date of decision: 29.11.2019

Bhushan Kumar

.....Petitioner

versus

Pardeep Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Rajnikant Upadhyay, Advocate,
for Mr. A.K. Kalsy, Advocate, for the petitioner.
Mr. Vaibhav Sehgal, Advocate, for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this revision, tenant has laid challenge to order dated 03.12.2016 (Annexure P-3), whereby Appellate Authority upon application of the respondent-landlord assessed mesne profits of the demised shop at ₹10,000/- per month from the preceding date of order of eviction against the petitioner.

Briefly, upon application of the respondent under Section 13 of the East Punjab Urban Rent Restriction Act, learned Rent Controller vide order dated 16.08.2016 ordered eviction of the petitioner-tenant with direction to him to vacate the demised shop within three months.

Being aggrieved, the revisionist-tenant approached the Appellate Authority by way of appeal, which is still pending adjudication. During its pendency, respondent-landlord moved an

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application for fixation of mesne profits of the demised shop payable by the petitioner to him during pendency of appeal after passing of eviction order against him.

The Appellate Authority, after hearing both the sides, fixed mesne profits at the rate of ₹10,000/- per month with direction to the petitioner to pay the same from the date of ejectment order against him, till disposal of the appeal.

Learned counsel for the petitioner *inter alia* contends that Appellate Authority failed to appreciate that demised shop is a very small shop measuring 3'x5'. Thus, petitioner is not earning much from it. Mesne profits of the demised shop could not have been more than ₹7,500/- per month, which at present the petitioner is paying regularly. Appellate Authority has not given any sound reasoning for fixation of mesne profits at ₹10,000/- per month.

On the other hand, learned counsel for the respondent-landlord refuting above submissions, pleading legality and validity of the impugned order, submits that taking judicial notice of the long tenancy of the petitioner over the demised shop since the year 1989 and increase of rate of rent since then manifolds, Appellate Authority has rightly assessed mesne profits at ₹10,000/- per month.

Having given thoughtful consideration to the rival submissions, this Court finds the instant revision completely devoid of any merit for the reasons to follow.

This Court, while exercising its revisional powers, has very

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limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioner has not been able to show any such infirmity in the order of the Appellate Authority.

Year of tenancy i.e. 1989 is not in dispute. Meaning thereby, petitioner was inducted as a tenant around 30 years back at ₹420/- per month as rent. In these last 30 years, there are steep rise in the prices of essential commodities.

Keeping in mind above aspect, this Court is not inclined to differ with the mesne profits at ₹10,000/- per month fixed by the Appellate Authority.

Dismissed.

November 29, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No