

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

CR No.4661 of 2017

Date of Decision : 10.09.2019

Savita Jaiswal

..... Petitioner

Versus

Neena Banta

..... Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. V. D. Sharma, Advocate
for the petitioner.

Mr. Sandeep Verma, Advocate
for the respondent.

SUDIP AHLUWALIA, J. (ORAL)

Ld. counsel for the respondent concedes that the tentative mesne profit required of the petitioner in terms of order dated 19.07.2017 has been paid in full till the last month, and that, as of now, no outstanding dues remain on that account.

2. This revision has been preferred against the order dated 26.05.2017 (Annexure P-6) passed by the Ld. Additional District Judge, Yamuna Nagar at Jagadhari vide which the petitioner-tenant was found liable to pay mesne profit/use and occupational charges of the demised property @ 6800/- per month from the date of eviction order passed against her, earlier by the Ld. Civil Judge, Junior Division, Jagadhari on 01.03.2017. It may be mentioned that the previous rent had been Rs.3500/- per month starting from 01.07.2010 when the tenancy had commenced. The respondent-landlord after passing of the eviction order,

had opposed the appeal filed by the petitioner and claimed that she was entitled to mesne profit, which could not have been less than Rs. 20,000/-.

3. Ld. Court below, however, relying upon the decision in ***“Gurbachan Singh versus The Punjab State Handloom Weaver Apex Cooperative Society Limited and another”***, (2015-2) PLR 481, assessed the mesne profit @ 6800/- per month.

4. Ld. Court below also referred to the earlier decision of this Court that an amount of Rs.8,000/- assessed as mesne profit in the aforesaid citation was also justified even by adding 10% increase of the base rent.

5. In the present case, the eviction order was passed against the petitioner more than 6 years after the induction of tenancy.

6. In the given facts and circumstances, this Court is of the view that the final assessment of mesne profit @ Rs.6800/- from the date of the eviction order, would appear to be slightly on the higher side even considering the increase @ 10% per annum.

7. After considering carefully the entire facts and circumstances, in the opinion of this Court, an amount of Rs.6000/- per month as mesne profit/occupational charges of the demised premises would meet the ends of justice. The petitioner is held entitled to pay the same from the date of the eviction order during the pendency of her appeal pending before the Ld. Court below.

8. The arrears which have accumulated on this amount till date shall be paid by the petitioner in 3 (three) equal instalments, along with

mesne profit as assessed hereinabove for the current months to follow within the 15th day of each month starting from October, 2019. Balance, if any, to be paid along with the last instalment.

9. The revision is, thus, allowed by modifying the impugned order by way of reducing the assessed mesne profit from Rs.6,800/- to Rs.6000/- per month. Any default in compliance of this order on the part of the petitioner would render the eviction order passed against her to be executable forthwith.

(SUDIP AHLUWALIA)
JUDGE

September 10, 2019

jyoti3/rittu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No