

In the High Court of Punjab and Haryana at Chandigarh

CR No. 6901 of 2017(O&M)

Date of Decision: 9.5.2019

Rajinder Pal Garg

---Petitioner

versus

Ajaib Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Ashish Grover, Advocate
for the petitioner**

**Mr. Rajan Bansal, Advocate,
for the respondent**

Rekha Mittal, J.

The present petition directs challenge against order dated 19.8.2017 passed by the Appellate Authority, Bathinda whereby mesne profits have been assessed @ Rs. 10,000/- per month qua the shop in question.

Counsel for the petitioner would state that findings of the Appellate Authority with regard to assessment of mesne profits @ Rs. 10,000/- per month do not find support from any registered lease deed of property in the vicinity of the property in question.

Counsel for the respondent, on the contrary, would argue that documents are available on record with regard to rent paid in respect of shops of Pepsu Raod Transport Corporation, Patiala, almost thrice of the mesne profits fixed in the present case. Counsel would further state that the respondent is also in possession of certain registered lease deeds of the

property in the same area and he may be allowed to place the same on record.

Perusal of penultimate para of order passed by the Appellate Authority shows that there is no reference to the documents on record in respect of tenancy qua shops of Pepsu Raod Transport Corporation, Patiala. It has been recorded in para 6 of the order that “in such like circumstances, after taking into consideration the locality and situation of the shop in question, it will be quite reasonable and in the fitness of things to fix the mesne profits to the tune of Rs. 10,000/- per month qua the shop in question”. Since the Appellate Authority has not taken into consideration the documents available on record, it would be in the fitness of things that the impugned order is set aside and the matter be remitted to the Appellate Authority for deciding the application for mesne profits afresh on the basis of materials already on record and additional documentary evidence, if any, to be produced by the parties.

In view of what has been discussed hereinabove, the petition stands disposed of. The impugned order is set aside and the matter is remitted to the Appellate Authority for deciding the application afresh, in the terms indicated hereinbefore. The application shall be decided within a period of one month from the next date fixed in the appeal. In the meanwhile, the petitioner shall continue to deposit mesne profits @ Rs. 5,000/- per month.

(Rekha Mittal)
Judge

9.5.2019

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