

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

CWP No.17416 of 2019

Date of Decision : 15.10.2019

Jagdish Singh

....Petitioner

Versus

Addl.Civil Judge (Senior Division) Phagwara

...Respondent

CORAM : HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present : Mr.Sanjeev Sehgal, Advocate
for the petitioner.

TEJINDER SINGH DHINDSA, J.(ORAL)

Pleadings on record would indicate that the petitioner herein had filed CM-3322-CII-2018 in CR-1068-2017 (Jagdish Singh v. Devinder Singh Baba and ors.) for determination of mesne profits in respect of the property in question. CM-3322-CII-2018 was disposed of by this Court on 03.10.2018 in terms of the following order :-

“Reply to the application for determining mesne profit has been filed, in court today, is taken on record.

Learned counsel for the respondent-landlord points out that the property is situated on Hoshiarpur road near Bus Stand and market rent shall not be less than Rs.50,000/- per month. He further submits that Rs.1200/- per month was agreed rent in the year 1993.

On the other hand, in the reply, it has been stated that the property is situated in the third side lane away from the main road. The petitioner has himself stated that

it will fetch a rent of Rs.12000/- per month.

Keeping in view the reply filed, the mesne profit are fixed at Rs.12,000/- per month from the date of filing of the petition.

Application stands disposed of.”

The mesne profits were fixed at Rs.12,000/- per month from the date of filing of the petition.

Petitioner then filed a review application seeking recalling of the order dated 03.10.2018 and which was dismissed by this Court vide order dated 13.11.2018 (Annexure P-2).

Petitioner then filed Special Leave Petition (Civil) No.11383 of 2019 before the Hon'ble Supreme Court and which was dismissed on 26.04.2019.

The instant writ petition has been preferred raising a prayer for issuance of a Mandamus for directing the Rent Controller, Phagwara to accept an application of the petitioner for appointment of a Local Commissioner to evaluate the mesne profits.

Counsel having been confronted with the factual premise that the order with regard to mesne profits having already been passed by the High Court at Rs.12,000/- per month and the same having been affirmed even by the Apex Court how could such a prayer be raised in the instant petition would respond by submitting that at the stage of dismissal of the Special Leave Petition, certain oral observations had been made and accordingly the instant petition has been filed.

This Court while dismissing the instant petition would

merely observe the same to be wholly misconceived.

On an application filed by the petitioner in a pending Civil Revision, the High Court has already passed an order dated 03.10.2018 fixing the mesne profits at Rs.12,000/-per month. Application moved by the petitioner seeking recalling of such order was dismissed by this Court on 13.11.2018. Thereafter, even the Special Leave Petition preferred by the petitioner has been dismissed by the Apex court on 26.04.2019.

No interference in the matter is called for.

Petition dismissed.

15.10.2019

(TEJINDER SINGH DHINDSA)

dss

JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No