

Civil Revision No. 4279 of 2019 (O&M)

Date of decision : July 15, 2019

Gurcharan Singh

.....Petitioner

Versus

Nabeela Parveen

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Sunny K. Singla, Advocate
for the petitioner.

LISA GILL, J.

The petitioner is aggrieved of order dated 13.05.2019 passed by the learned Appellate Authority, Sangrur whereby the petitioner has been directed to pay market rent/mesne profits qua the demised premises at the rate of ₹3,600/- per month.

Ejectment of the petitioner from the demised premises was ordered by the learned Rent Controller on 07.07.2018. Aggrieved therefrom, an appeal was preferred by the present petitioner which is pending before the learned Appellate Authority. Respondent – landlord filed an application for grant of mesne profits at the rate of ₹15,000/- per month alongwith arrears. The landlord relied upon two rent notes dated 24.04.2017 for ₹12,000/- per month and 11.05.2016 for ₹8,000/- per month in respect to two shops in the vicinity. Learned Appellate Authority while taking into consideration the difference in the size and construction of the present shop, assessed the market rent of the demised premises as ₹3600/- per month.

The petitioner, it is submitted, was admittedly paying the rent of ₹1,250/- per month at the time of filing of the eviction petition in the year

2011. Learned counsel for the petitioner argues that the learned appellate

Authority has grossly erred in assessing the market rent to be ₹3600/- per month on the basis of rent notes, which are not registered documents. The petitioner, it is submitted, has been in possession of the demised premises since 1970. It is further submitted that the petitioner is regularly paying the rent at the rate of ₹1250/- per month. The amount of ₹3600/- as assessed by the learned appellate Authority is excessive and should be reduced.

I have heard learned counsel for the petitioner.

Learned counsel for the petitioner is unable to deny that the shops, the example of which has been noted by the learned Appellate Authority, are indeed situated in the same vicinity as the demised premises. The petitioner has admittedly not placed on record any evidence to show that the market rent in the area is even lower than ₹3600/- per month. The learned Appellate Authority has duly taken into consideration the area as well as type of construction of the demised premises while assessing the market rent.

Keeping in view the facts and circumstances of the case, I do not find any infirmity in the assessment of the market rent at the rate of ₹3600/- per month by the learned Appellate Authority, Sangrur. However, the learned Appellate Authority, Sangrur shall ensure that the necessary undertaking is filed by the respondent – landlord to the effect that in case the petitioner's appeal is decided in his favour, the amount of mesne profits received by the landlord i.e. ₹2350/- ₹3600/- minus ₹1250/- per month shall be refunded by the landlord.

With the above said modification in order dated 13.05.2019, this petition is disposed of. Needless to say liberty is afforded to the

respondent to move an appropriate application in case of any factual inaccuracy which may have been presented before this Court.

July 15, 2019
rts

(Lisa Gill)
Judge

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