

Raman Kumar

.....Petitioner

Versus

Dharam Pal

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Gazi Mohd. Umair, Advocate
for the petitioner.

LISA GILL, J.

This revision petition has been filed by the petitioner – tenant challenging order dated 11.10.2019 (Annexure P4) passed by the learned Appellate Authority, Sangrur whereby the petitioner has been directed to pay mesne profits at the rate of ₹5000/- for the demised premises which is a shop measuring 15 x 44 square feet situated at old Bus Stand Bhawanigarh.

Respondent – landlord's petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking ejectment of the present petitioner was allowed on 04.07.2019 on the ground of personal bonafide requirement. An appeal has been filed by the petitioner wherein the learned Appellate Authority vide impugned order dated 11.10.2019 has directed the petitioner – tenant to pay mesne profits at the rate of ₹5000/- per month from the date of order of ejectment i.e. 04.07.2019 till the decision of the present appeal. It is further observed that the operation of the ejectment order dated 04.07.2019 would remain stayed subject to the payment as directed.

Learned counsel for the petitioner vehemently argues that the said amount of ₹5,000/- per month has been assessed in a whimsical manner without reference to any document on record to show the market rent

available in the area of similar premises. It is further argued that the tenant has been in possession of the shop in question since the year 1990 at the rate of ₹150/- per month. No documentary evidence had been led by the respondent – landlord to prove the rate of rent to be ₹10,000/- per month as claimed by him in his application. In this view of the matter, it is submitted that the impugned order dated 11.10.2019 be set aside and the rate of mesne profits be reduced.

I have heard learned counsel for the petitioner and have gone through the file with his able assistance.

It is not in dispute that the premises in question i.e. the demised shop is abutting the State highway and is situated near the old Bus Stand Bhawanigarh. Learned Appellate Authority while observing that though there is no documentary evidence in regard to the rate of rent to be ₹10,000/- in the locality, as has been paid to the landlord, reference has been made to the total house tax paid by the respondent – landlord and to various judgments of the Hon'ble Supreme Court as well as of this Court while holding that escalation of the value of the demised premises etc. during the period of 29 years clearly justified the fixation of the mesne profits at the rate of ₹5000/- per month.

Having regard to the location of the demised premises and the passage of the period of 29 years, I do not find any ground whatsoever to interfere in the quantum of mesne profits as assessed by the learned Appellate authority at the rate of ₹5,000/- per month. However, in view of the judgment of the Hon'ble Supreme Court in *M/s. Super Max International Pvt. Ltd. and others* 2009(2) RCR (Rent) 246, it is directed

that in case appeal filed by the tenant is allowed, the respondent – landlord

shall be liable to refund the amount of mesne profits, less the contractual amount. Keeping in view the amount in question, the direction for payment of the same to the landlord is not interfered with.

Accordingly with the abovesaid modification in order dated 11.10.2019 passed by the learned Appellate Authority, Sangrur, the present revision petition is dismissed.

November 18, 2019
rts

(Lisa Gill)
Judge

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