

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

128

CR-1263-2022 (O&M)
Date of decision: 06.04.2022

MANGAL SINGH @ MANGAT SINGH

.....Petitioner

Versus

NIRMAL SINGH AND ANR

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vinay Puri, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition has been filed under Section 15(5) of the East Punjab Rent Restriction Act, 1949 for setting aside the order dated 23.02.2021 (Annexure P-5) whereby the petitioner-tenant has been directed to pay mesne profits at the rate of Rs.10,000/- per month with effect from 20.09.2021.

Learned counsel for the petitioner submits that the appellate authority has arbitrarily fixed the mesne profits at the rate of Rs.10,000/- per month without considering any cogent and relevant material. Learned counsel submits that the demised shop measuring 7 feet x 12 feet is very small, therefore, mesne profits could not have been more than Rs.7,500/- per month, more-so, when no registered lease deeds of the neighbouring shops were placed on record by the respondent-landlord. Learned counsel further submits that since the relationship of landlord and tenant was specifically denied by the petitioner-tenant, the appellate authority was not justified in directing him to pay mesne profits.

Heard and perused the material on record including the

impugned order.

The appellate authority has rightly observed that the mesne profit is not rent which landlord would have earned in the open market and there has to be an element of reasonableness while assessing the same.

It would be pertinent to observe here that the relevant factors for assessing the mesne profits are location, carpet area of the premises, nature of business being carried out, prevailing rates of rent in the neighbourhood etc.

In the case in hand although no material such as registered lease/rent deeds of shops in the neighbourhood were placed on record either by the petitioner-tenant or the respondent-landlord, however, the demised shop measuring 7 feet x 12 feet is situated in Transport Nagar, which is a commercial hub of the city and where the petitioner-tenant is doing the work of a mechanic. Therefore, this Court is of the opinion that the appellate authority has assessed the mesne profits at a very reasonable rate of Rs.10,000/- per month and it cannot be said to have acted in an arbitrary manner. Still further, whether there was a relationship of landlord and tenant between the parties or not is a matter to be adjudicated upon on merits by the appellate authority and cannot be gone into while assessing mesne profits.

Accordingly, the instant petition being devoid of merit, is dismissed.

06.04.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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