

129 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1387-2022 (O&M)
Decided on : 20.04.2022

Kulwant Singh

..... Petitioner

Versus

Moji Ram

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ankit Chowdhri, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

Instant petition has been preferred to impugn the order dated 24.03.2022 passed by the Appellate Authority, Chandigarh vide which the mesne profits in respect of the demised premises of the respondent-landlord were assessed in the sum of Rs.13,000/- per month in an application filed under Order 15 Rule 5 r/w Section 151 CPC by the respondent-landlord.

Learned counsel for the petitioner *inter alia* contends that while passing the impugned order, the Appellate Authority erred in taking into account the lease deed (Annexure P-4) in respect of House No.2393-94, First Floor, Sector 22-C, Chandigarh, which had been leased out to M/s Taj GVK Hotels, Sector 17-A, Chandigarh for a sum of Rs.30,000/- per month. Learned counsel submits that since the demised premises was a residential house, hence, the Appellate Authority could not have equated it with House No. 2393-94, First Floor, Sector 22-C, Chandigarh, which was in fact being used for commercial purposes by its tenants. In support of his submissions,

learned counsel has placed reliance upon a rent deed (Annexure P-6) of House No.2203, Sector 22-C, Chandigarh, which was in the same vicinity as the demised premises and where the tenants were paying rent in the sum of Rs.5,000/- per month. It was, thus, urged that the mesne profits assessed by the Appellate Authority was visibly on the higher side, which required to be scaled down to Rs.5,000/- per month, which was the prevailing rent in the area.

I have heard learned counsel and perused the relevant material on record.

It would be pertinent to observe that the location, carpet area of the premises and the prevailing rate of rent in the vicinity would be relevant factors to be taken into account for assessing the mesne profits. Learned counsel vehemently urged that as House No.2393-94, First Floor, Sector 22-C, Chandigarh rented out to M/s Taj GVK Hotels, Chandigarh was a commercial premises and hence, both the premises could not be kept at par with each other. However, this Court does not find any merit in the submissions made by learned counsel because when a pointed query was put to learned counsel as to what commercial activities were being carried out in House No.2393-94, First Floor, Sector 22-C, Chandigarh, he submitted that the an employee of M/s Taj GVK Hotels, Chandigarh was living in the said premises as a tenant. In the circumstances, this Court fails to comprehend as to how House No. 2393-94, First Floor, Sector 22-C, Chandigarh could be termed as a commercial premises. It is a matter of record and cannot be disputed that Sector 22, Chandigarh is not only a very busy commercial hub

of the city but is one of the better neighbourhoods of Chandigarh. Moreover, it is the admitted case of the petitioner-tenant that when he was inducted as a tenant way back in the year 2006 by the respondent-landlord, he was paying a monthly rent of Rs.4,200/- per month. In the circumstances, it cannot be digested that even after 14 years, the rent of the demised premises would not be more than Rs.5,000/- per month, which as per the learned counsel is being paid by one of the tenants of a premises in the same neighbourhood.

This Court, therefore, does not find any infirmity or arbitrariness in the impugned order.

Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

20.04.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No