

CR-3805-2022(O&M) and  
CR-5088-2022(O&M)

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

(1) CR-3805-2022(O&M)

Guriqbal Singh Sandhera

...Petitioner

Versus

Ashwani Kumar Diwan

...Respondent

(2) CR-5088-2022(O&M)

Ashwani Kumar Diwan

...Petitioner

Versus

Guriqbal Singh Sandhera and others

...Respondents

**Date of decision:-2.12.2022**

**CORAM: HON'BLE MR.JUSTICE H.S.MADAAN**

Present: Ms.Manjot Kaur, Advocate  
for the petitioner in CR-3805-2022 and  
for respondent No.1 in CR-5088-2022.

Mr.Divanshu Jain, Advocate  
for the petitioner in CR-5088-2022 and  
for respondent/caveator in CR-3805-2022.

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**H.S. MADAAN, J.**

1. Vide this order, I shall dispose of two civil revision petitions  
i.e. CR-3805-2022 filed on behalf of revisionist/petitioner Guriqbal Singh  
Sandhera and CR-5088-2022 filed on behalf of revisionist/petitioner

Ashwani Kumar Diwan.

**CM-11719-CII-2022 in**  
**CR-3805-2022**

2. For the reasons mentioned in the application, the same is allowed and leave to file the petition is granted.

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3. Briefly stated, facts of the case are that petitioners/landlords Ashwani Kumar and others had filed an ejectment petition against their tenant Guriqbal Singh Sandhera seeking his ejectment from the demised premises i.e. a hall, two bedrooms, glazed verandah, two toilets, one kitchen, open terrace on the first floor of House No.52, Sector 2-B, Chandigarh. That ejectment petition was accepted on 25.11.2019 since ground of personal necessity was found to have been established by the petitioners/landlords and the tenant was granted two months time to vacate the demised premises.

4. However, the respondent/tenant had preferred an appeal before the Appellate Authority, Chandigarh, notice of which was given respondents/landlords, who put in appearance and filed an application for grant of mesne profits/damages for use and occupation of premises by appellant/tenant Guriqbal Singh Sandhera submitting that he was liable to pay mesne profits/damages at the prevailing rate of rent of Rs.75,000/- minimum. The applicants/landlords have produced lease deeds dated 8.11.2017, 16.5.2012 and 18.9.2019 in support of their that contention while claiming mesne profits/damages @ Rs.75,000/- per month.

5. That application was opposed on behalf of the

appellant/tenant submitting that premises in question are very old building and was in dilapidated condition maintained by respondent/tenant himself; the electric wires are open hanging, which pose dangers to human life; the landlords have failed to provide car parking and other basic amenities; therefore, the landlords are not entitled to take market prevalent rate of rent in the area for use and occupation of premises in question; the sale deeds relied upon by the landlords are for duly built and well furnished houses and premises in question are not at par with those; all the three release deeds relied upon by the landlords relate to the houses having three bedrooms and attached three bath rooms, modular kitchen, whereas in the demised premises, there is only one bath room and one irregular kitchen. The appellant/tenant relied upon lease deed Annexure R-1. He prayed for dismissal of the application.

6. After hearing counsel for the parties, learned Appellate Authority, Chandigarh vide order dated 10.8.2022 disposed of the application assessing the mesne profits @ Rs.40,000/- per month w.e.f. 25.11.2019 i.e. the date of passing of eviction order directing that mesne profits shall be deposited by the appellant in the form of fixed deposit carrying maximum rate of interest in a nationalised bank favouring respondent/landlord and FDR amount along with accrued interest shall be paid after the disposal of the appeal to either side depending upon the decision of the appeal. It was further directed that FDR shall be placed on Court file carrying endorsement of Manager concerned that FDR will not be encashed without prior permission of the Court and that the landlords would also furnish an undertaking that amount deposited in FDR will not

be got released without the order passed by the Court. The appellant/tenant was directed to deposit the arrears of mesne profits w.e.f. 25.11.2019 within two months from the date of order and to continue depositing future monthly mesne profits on 10<sup>th</sup> day of each calender month.

7. Both the parties felt aggrieved by this order and have filed separate revision petitions. The revisionist/petitioner in CR-3805-2022, who is tenant wants setting aside of the order and dismissal of the application for grant of mesne profits/damages for use and occupation of demised premises, whereas revisionist/petitioner in CR-5088-2022, who is landlord seeks enhancement of the amount to Rs.75,000/- per month.

8. I have heard learned counsel for the parties besides going through the record.

9. I find that the order passed by the Appellate Authority, Chadigarh is very detailed containing reasons for passing of the order, which are cogent and convincing. The factual and legal position on the subject has been appreciated properly. All the facts and circumstances of the case including the prevalent rate of rent in the surrounding area, the extent of accommodation in possession of tenant and its present condition have been taken into consideration while fixing the amount. The amount so fixed @ Rs.40,000/- per month is proper and appropriate. It neither calls for enhancement nor reduction. The rights of both the parties have been properly protected by directing that the amount of arrears of mesne profits as well as recurring and future mesne profits shall be deposited in the form of FDR with a nationalised bank and the payment would be

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made ,subject to final order passed by the Court.

10. Therefore, no ground is made out to interfere with the impugned order passed by the Appellate Authority, Chandigarh by way of acceptance of revision petition by either of the party, which is detailed and well reasoned. The same is upheld. The revision petitions filed against that order are doomed for failure and are dismissed accordingly.

2.12.2022  
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**(H.S.MADAAN)**  
**JUDGE**

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**