

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

CR-5242-2022(O&M)

Date of decision:-16.11.2022

Davinder Singh

...Petitioner

Versus

Sanjiv Kumari and another

...Respondents

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

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

H.S. MADAAN, J.(ORAL)

1. On petitioners – landladies Sanjiv Kumari and Sunita Kumari having brought a petition under Section 13 of the East Punjab Rent Restriction Act, 1949 against respondents/tenants Davinder Singh and Lakhwinder Singh seeking their ejection from the demised shop situated at Main Bazar, Urmurh Tanda, Tehsil Dasuya, District Hoshiarpur, notice of that petition was given to the respondents, who put in appearance and contested the petition. Issues on merits were framed. The parties were afforded adequate opportunities to lead evidence in support of their respective claims.

2. After hearing arguments, learned Rent Controller, Dasuya vide order dated 11.4.2022 accepted the rent petition and directed the respondent/tenant to hand over the vacant possession of demised shop to petitioner within two months from the date of order, otherwise the petitioner could get the possession through intervention of the Court.

3. Respondent/tenant Davinder Singh preferred an appeal against the ejectment order passed by the Rent Controller, Dasuya. During the course of those proceedings, the landladies filed an application for payment of mesne profit at the rate of Rs.20,000/- per month during the pendency of the appeal contending that the rate of rent for similar type of shops like that of the demised shop in the locality was Rs.20,000/- per month, whereas the appellant/tenant had been paying rent at the rate of Rs.170/- per month, therefore, he be asked to pay the mesne profits at the rate of Rs.20,000/- per month.

4. The application was resisted on behalf of the appellant/tenant stating that the respondents/landladies are not entitled to get any mesne profit and rate of the rent in the area is on very low side and many shops are lying vacant. He prayed for dismissal of the application.

5. After hearing arguments, learned Appellate Authority, Hoshiarpur accepted the application and granted mesne profits at the rate of Rs.2,500/- per month.

6. Feeling aggrieved by the said order passed by the Appellate Authority, Hoshiarpur, the appellant/tenant has filed the present revision petition praying that the same be accepted and the application filed by the landladies for grant of mesne profits be dismissed.

7. I have heard learned counsel for the revisionist besides going through the record and I find that the revision petition is absolutely without any merit.

8. As it transpires from the record that learned Rent Controller, Dasuya had ordered ejectment of the respondent/tenant Davinder Singh,

who is revisionist before this Court. He has preferred an appeal before Additional District -cum – Appellate Authority, Hoshiarpur, which is pending. The rate of rent comes out to be Rs.170/- per month. After passing ejectment order against the tenant, his possession cannot be held to be legal and he cannot insist to pay rent at the rate of Rs.170/- per month to the landladies when the prevalent rate of rent in the locality is much more. The tenant is certainly liable to pay some amount towards mesne profit to the landladies. The Appellate Authority, Hoshiarpur by properly analysing the factual and legal position has fixed the mesne profits at the rate of Rs.2,500/- per month, though the claim made by the landladies at the rate of Rs.20,000/-. The stand taken by the appellant/tenant that he is liable to pay rent at the rate of Rs.170/- per month only with no liability of making any payment to the landladies towards mesne profits is entirely wrong. He is liable to pay mesne profits and such profits fixed at the rate of Rs.2,500/- per month cannot be said to be on higher side.

9. The order passed by the Appellate Authority, Hoshiarpur is quite detailed and well reasoned. The order does not come out to be suffering from any illegality or infirmity much less apparent on the face of it. In the impugned order, judgment by the Apex Court i.e. **M/s Atma Ram Properties (P) Ltd. Versus M/s Federal Motors Pvt. Ltd. 2005(1) ACJ, 426(SC)** has been referred, wherein it was observed that the tenant continuing in occupation of the tenancy premises after the termination of tenancy is an unauthorized and wrongful occupation and decree for damages or mesne profit can be passed for the period of such occupation

till the date he delivers the vacant possession to the landlord.

10. The order is certainly not perverse or passed in an arbitrary manner. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction. No substantial question of law or fact arises in this case.

11. The order dated 13.10.2022 passed by the Appellate Authority, Hoshiarpur challenged in this revision petition is upheld. Whereas finding no merit in the civil revision petition, the same stands dismissed.

16.11.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No