

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

CR 5382/2022(O&M)

Date of decision: 21.11.2022

Sukhjit Kaur @ Sukhjeet Kaur

.....Petitioner.

Vs.

Jasbir Singh

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Lakhwinder Singh Lakhanpal, Advocate for the petitioner.

Nidhi Gupta, J.

By way of this revision petition the petitioner has challenged the order dated 29.8.2022 passed by the learned Appellate Authority, Ludhiana whereby petitioner's application for staying the operation of eviction order dated 11.11.2021 has been allowed subject to payment of mesne profits @ 3500/- from the date of eviction till 31.7.2022, to be deposited by the petitioner before the Rent Controller within one month.

Brief facts of the case are that the respondent-landlord is owner of the flat number 600 situated at LIG colony, Chandigarh Road, Ludhiana. The said premises were rented out to the petitioner-tenant at a monthly rent of Rs.1700 per month on 7.4.2012. As the petitioner-Tenant was in arrears of rent from 1.10.2015, the respondent-landlord filed petition under section 13 of the East Punjab Urban Rent Restriction Act, 1949 for ejectment of the petitioner-Tenant from the demised premises. This petition was allowed by the Rent Controller, Ludhiana vide order dated 11.11.2021. The petitioner – tenant

challenged this eviction order before the Appellate Authority, and also filed application for stay of order dated 11.11.2021. Simultaneously, the respondent – landlord also filed an application seeking mesne profits from the petitioner-tenant for the user and occupation of the demised property at the rate of Rs.30,000 per month during the pendency of the appeal. Vide impugned order dated 29.8.2022, the ld. Appellate Authority has stayed the operation of eviction order dated 11.11.2021 subject to payment of mesne profits @ 3500/- from the date of eviction till 31.7.2022.

The singular ground raised by the petitioner in challenging the impugned order is that before passing the order for mesne profits, the Appellate Authority is required to make an inquiry under the law.

However, perusal of the impugned order shows that the learned Appellate Authority has indeed made sufficient inquiry as required under law inasmuch as, the ld. Appellate Authority has considered all the material placed before it, including copy of Rent Note dated 26.12.2019 pertaining to a shop in the vicinity which was rented out @ Rs.17,000/- per month. No doubt this rate of Rs.17,000/- is in regard to commercial premises and accordingly, the ld. Appellate Authority, after due application of mind has fixed the mesne profits in the present case only @ Rs.3500/- per month. It is also not in dispute that the demised premises are situated in an area where many famous places of Ludhiana such as Gurudwara Sri Karamsar Sahib, hospitals, schools, shopping complexes and government offices are located and the area has become commercial hub of the city. It has also not been disputed that the market value of the property in question in 2010 was Rs.10 lakhs, which has now increased to Rs.20 lakhs. Impugned order also reveals that while deciding that mesne profits be paid @ Rs.3500/- per month, learned Appellate Authority has considered all the relevant

case law on the subject including **M/s Atma Ram Properties (P) Ltd. Vs M/s Federal Motors Pvt.Ltd. 2005(1) RCR (Rent)1; The State of Maharashtra and another v Super Max International Pvt. Ltd. And others, 2009 (2) RCR (Rent) 246; Onkar Singh vs. Manpreet Kaur 2016(2) RCR (Rent) 823; Mohd. Ahmad v Atma Ram Chauhan 2011(1) RCR (Rent) 394; and Bhushan Kumar v Pardeep Kumar 2020(1) Law Herald (P&H) 379.** Another factor to be borne in mind is that the tenancy is of the year 2012 with the monthly rent of only Rs.1700/- per month. It is also not in dispute that the petitioner has not paid the arrears of rent since 1.10.2015.

In view of the above facts, I find no ground to interfere, and no error is made out in the order dated 29.8.2022 passed by the learned Appellate Authority, Ludhiana. Accordingly, the present revision petition stands dismissed.

Pending Application(s),if any, also stand disposed of.

(Nidhi Gupta)
Judge

21.11.2022
Joshi

Whether speaking/reasoned

Yes

Whether reportable

Yes/No