

CR-4843-2023 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.139

CR-4843-2023 (O&M)
Date of Decision: 23.08.2023

AVTAR SINGH

....Petitioner

Versus

RAJPAL SINGH AND ANOTHER

.....Respondents

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

Present:- Mr. Sharad Mehra, Advocate
for the petitioner.

ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order dated 14.08.2023 (Annexure P-1), passed by learned Appellate Court in RA-15/2023, vide which application for vacation of stay was allowed and therein even the mesne profits were assessed of the demised shop at the rate of Rs.3,000/- per month, from the date of eviction order.

Notice of motion.

Mr. Pankaj Sharma, Advocate accepts notice on behalf of the respondents and filed his Power of Attorney, which is taken on record.

The order passed by learned Appellate Court, *vis-a-vis*, assessment of the mesne profits is reproduced herein given:-

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“XXX XXX XXX XXXX...

I deem it proper to assess the mesne profits in respect of the shop in question @ Rs.3000/- per month from the date of eviction order. The appellant/tenant is directed to clear the arrears within one month from today and will pay the mesne profits regularly by 15th of every following month. Subject to the payment of mesne profit as assessed, the operation of order under appeal shall remain stayed during the pendency of the appeal. Both the applications stand disposed of accordingly.”

It has been submitted by learned counsel for the petitioner that wrong interpretation has been given to the aforesaid order under the impression about the arrears to be cleared, with regard to the period, prior to the decision of the ejectment petition, whereas the aforesaid order reveals about the same to be only relating to the arrears since the decision of the eviction order.

Learned counsel making appearance on behalf of the respondents also submits that the mesne profit of the period from the date of eviction order till date have already been paid and now nothing is due. The stay was vacated, while taking into consideration the arrears to be of the period 20.01.2018 till 31.03.2022 i.e. the period prior to the decision of the ejectment petition on 01.04.2022.

Considering the same, there was mis-interpretation of the order of mesne profits, so passed. However, as evident now, in view of the submissions, so made, compliance of the order dated 02.02.2023, with regard to the assessment of the mesne profit and the payment of the said period, as directed vide the aforesaid order, stands complied with.

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However, at this stage, learned counsel for the petitioner submits that the petitioner gives an undertaking that he shall deposit the arrears of rent of the aforesaid period i.e. 20.01.2018 to 31.03.2022, amounting to Rs.53,341/-, within a period of 15 days from today onwards.

In the light of the same, revision petition is hereby accepted and the impugned order dated 14.08.2023 (Annexure P-1) is set aside and the stay order earlier granted by learned Appellate Court stands restored.

Accordingly, the instant revision petition stands disposed of.

23.08.2023
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(ARCHANA PURI)
JUDGE

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