

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

CR-5274-2023

Date of Decision: November 06, 2023

RAKESH KUMAR BHAMBRI THROUGH HIS LR Petitioner
Versus
AMIT HANDA AND OTHERS Respondents

CR-5664-2023

AMIT HANDA Petitioner

Versus

**RAKESH KUMAR BHAMBRI (DECEASED) THROUGH
HIS LR AND OTHERS** Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sandeep Punchhi, Advocate for the petitioner in CR-5274-2023 and for respondents in CR-5664-2023.

Mr. Kiran Kumar Madan, Advocate for respondents in CR-5274-2023 and for petitioner in CR-5664-2023.

HARKESH MANUJA, J. (ORAL)

By this decision, aforementioned two Civil Revisions are being disposed of, which arise out of two separate orders dated 08.08.2023 passed by the Appellate Authority, Jalandhar though involving similar facts whereby, mesne profits @ Rs.10,000/- p.m. qua two demised shops have been assessed. For convenience, facts are being taken from CR-5274-2023 titled as "Rakesh Kumar Bhambri Through his LR Vs. Amit Handa and Ors." The partes shall be addressed as per their status before the Rent Controller.

2. Briefly stating, the landlord filed an eviction petition against tenant qua the demised shop forming part of property No.EJ-192,

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Chahar Bagh, opposite Shivaji Park, Jalandhar, on the grounds of arrears of rent; the tenant having ceased to occupy the same besides claiming his own bona fide need. The Rent Controller vide judgment dated 25.04.2023 ordered eviction against tenant on the grounds of he having ceased to occupy the demised shop besides, finding the bona fide need of the landlord to be genuine.

3. Aggrieved thereof, the tenant filed First Appeal wherein the landlord, moved an application seeking fixation of mesne profits. Though, the said prayer was opposed at the instance of tenant, however, the Appellate Authority vide order dated 08.08.2023 assessed the mesne profits @ Rs.10,000/- per month, payable by the tenant from the date of eviction order.

4. Impugning the aforementioned order dated 08.08.2023, passed by the Appellate Authority, learned counsel for the tenant submits that the Appellate Authority while assessing the mesne profits went wrong while relying upon the lease deed dated 09.07.2018, pertaining to property No.EJ-291, situated at Chahar Bagh, Phagwara Gate, Jalandhar. He points out that the area leased out in the lease deed dated 09.07.2018 was 7 ft. x 23 ft. whereas, the demised shop measured 9 ft. x 18 ft. (though, seriously disputed by the landlord who claims it to be 9 ft. x 23 ft.). Learned counsel for the petitioner also submits that Chahar Bagh, Jalandhar is a big residential area situated in Jalandhar and consisting of number of markets and there is a huge distance between the demised shop and the premises mentioned

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in the lease deed dated 09.07.2018 and thus, the same could not have been relied upon by the Appellate Authority. He further submits that the lease deed dated 09.07.2018 being an unregistered document was having little relevance and thus, at best 5% appreciation after every three years could have been applied on the agreed rate of rent. In this regard, learned counsel places reliance upon judgment passed by this Court in Civil Revision No. 180 of 2019 titled as **“Vijay Kumar Rajput Vs. Surmukh Singh”**.

5. On the other hand, learned counsel for the landlord basis his entire argument upon lease deed dated 09.07.2018 and submits that the First Appellate Court went wrong while assessing the mesne profits @ Rs.10,000/- p.m. Learned counsel further points out that the agreed rate by virtue of lease deed dated 09.07.2018 was around Rs.22,000/- per month which was later increased to Rs.25,500/- vide subsequent lease deed dated 20.07.2021 and thus, appropriate increase thereupon between the date of subsequent lease deed till the date of eviction order dated 24.04.2023, passed in the present case should have been calculated by the Appellate Court .

6. I have heard learned counsel for the parties and gone through the paper-book as well as the documents appended along with the same. I am unable to find substance in the submissions made by learned counsel for the petitioner.

7. In the present case, a perusal of lease deed dated 19.07.2018 shows that the same pertains to property No.E.J.-291 situated at Chahar Bagh, Phagwara Gate, Jalandhar for an area

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measuring 7 ft. x 23 ft. whereas, the demised shop forms part of property No. EJ-192, Chahar Bagh, Opposite Shivaji Park, Jalandhar with dimensions of 9 ft. X 18 ft. As per the lease deed dated 09.07.2018 the monthly rent for an area of 7 ft. x 23 ft. was Rs.22,000 /- which later was increased to Rs.25,500/- vide supplementary lease deed dated 20.07.2021 i.e. giving an application of 16% for a gap of three years. Considering the property numbers of the two premises, it is apparent that the same are situated not too far, particularly when both form part of one common locality i.e. Chahar Bagh, Jalandhar. For just being situated in two different commercial pockets of the common locality, there does not appear to be any illegality or perversity committed by the Appellate Authority while relying upon the said lease deed dated 09.07.2018 for the purposes of fixation of mesne profits, particularly, in view of the fact that nothing to the contrary has even been produced on record by the tenant. The aforesaid lease deed dated 19.07.2018 cannot be discarded merely for the reason that the same happens to be an unregistered document as it is being considered merely as an instance and guidance, particularly when the tenant has not been able to impeach its authenticity by controverting the same. Moreover, despite the copy of lease deed dated 09.07.2018 been attached along with the application by the landlord, the same was never rebutted or controverted through any counter-lease deed or substantive document except having questioned its veracity without raising any meaningful plea.

8. Further, from the facts and the documents available on

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record it is apparent that there has been gradual increase of rent in the area of Chahar Bagh, Jalandhar as the rent from July 2018 got appreciated to an extent of 16% within a period of three years and thus, the Appellate Authority was to consider the said appreciation while determining the mesne profits in the year 2023 (w.e.f. 25.04.2023 i.e. the date of eviction order). Considering the aforesaid fact, it is apparent that approximately 10% additional appreciation would have been there between July 2021 and April 2023 thereby, taking the same to Rs.28,000/- per month for the year 2023.

9. Accordingly, in view of the aforesaid discussion and upon taking into consideration the lease deed dated 09.07.2018 as well as the appreciation of rent in the area besides, the dimensions of the two premises being approximately the same, in the facts and circumstances of the present case, the assessment of mesne profits needs to be determined @ Rs.20,000/- per month w.e.f. the date of eviction order i.e. 25.04.2023. The petitioner-tenant is thus, directed to clear all the arrears within a period of four weeks from today. It is made clear that the amount of arrears of mesne profits shall be released in favour of respondent-landlord. Resultantly, the revision petition bearing No.CR-5274-2023 is dismissed and revision petition bearing No.CR-5664-2023 is allowed.

10. Pending application(s), if any, shall also stand disposed of.

06.11.2023
tejwinder

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No

