

CR-6113 of 2023 (O&M)

2023:PHHC:137194

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

CR-6113 of 2023 (O&M)
Date of decision: 19.10.2023

Suman Khanna and others

.....Petitioners

Versus

Rajesh Khanna

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. R.S. Bajaj, Advocate,
for the petitioners.

NAMIT KUMAR, J.

CM-19148-CII of 2023

1. This application has been filed by the applicant-petitioners under Order 22 Rule 3 CPC read with Section 151 CPC for bringing on record the LRs of petitioner No.2-Raman Khanna.

2. In para 2 of the application it has been mentioned that petitioner No.2-Raman Khanna expired during the pendency of the appeal before the Appellate Court on 30.04.2023 and left behind the legal representatives mentioned in this paragraph. It has further been mentioned that there is no other legal representative of deceased-Raman Khanna except the persons mentioned in para 2 of the application.

3. In view of the averments made in the application, which is duly supported by an affidavit of Suman Khanna-petitioner No.1, same

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is allowed. Persons mentioned in para 2 of the application are ordered to be impleaded as legal representatives of deceased-Raman Khanna, subject to all just exceptions.

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1. This revision petition has been filed by petitioners under Article 227 of the Constitution of India challenging the order dated 10.08.2023 (Annexure P-3) passed by the Appellate Authority, Jalandhar in IA No.02 of 2023 in RA No.8 of 2020 dated 16.01.2020 titled 'Suman Khanna and another v. Rajesh Khanna' vide which application filed by the respondent for grant of mesne profits has been allowed.

2. Brief facts necessary for disposal of the present revision petition are that respondent filed a petition for ejectment of the petitioners from shop No.1 at ground floor, Khanna Market/Building near Milap Chowk, Jalandhar, on the ground of personal necessity. Petitioners appeared and filed reply to the petition taking various objections. The petition was allowed by the Rent Controller, Jalandhar, vide order dated 03.12.2019 and the petitioners were directed to hand over the vacant possession of the shop in dispute to the respondent. Aggrieved against the order dated 03.12.2019, petitioners preferred appeal before the Appellate Authority, Jalandhar. In the said appeal, respondent filed an application for grant of mesne profits @ Rs.50,000/- per month from 03.12.2019 onwards. Petitioners contested the said application. Appellate Authority vide impugned order dated 10.08.2023 has allowed the said application and directed the petitioners

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to pay mesne profits @ Rs.9,000/- per month from 03.12.2019 onwards i.e. the date of ejectment order passed by the Rent Controller.

3. Learned counsel for the petitioners contended that the Appellate Authority failed to appreciate that the application filed for mesne profits was not maintainable as the respondent had no *locus standi* to recover the rent from the petitioner in respect of the property in dispute as relationship of landlord and tenant between the parties is disputed and issue with regard to relationship of landlord and tenant is still sub judice. He further contended that the mesne profits assessed by the Appellate Authority are on the higher side. Therefore, the impugned order is not sustainable in the eyes of law and the same is liable to be set aside.

4. I have heard learned counsel for the petitioners and perused the record.

5. Admittedly, petitioners have been ordered to be evicted by the Rent Controller vide order dated 03.12.2019 and their appeal is pending before the Appellate Authority, Jalandhar. Therefore, respondent is entitled for mesne profits for the use and occupation of the shop in question by the petitioners after their eviction. Mesne profits assessed by the Appellate Authority @ Rs.9,000/- per month cannot be said on the higher side as rent note produced by the respondent executed in the year 2017 depicts the rent in the area @ Rs.18900/- per month as the same has been assessed by the Appellate Authority keeping in view the facts of the case and market rate of rent of the area.

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6. The impugned order passed by the Appellate Authority is quite detailed and well-reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. 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.

7. Finding no merit in the revision petition, the same stands dismissed.

19.10.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No