

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

CR No.5595 of 2022

Date of Decision: 04.01.2023

Davinder Pal Singh and another

...Petitioners

Versus

Meena Sareen

...Respondent

BEFORE: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Mr. Amitabh Tiwari, Advocate and
Mr. Satvik Bansal, Advocate
for the revisionists-petitioners.

MEENAKSHI I. MEHTA, J.

By way of the instant revision petition, the petitioners-tenants (here-in-after to be referred as 'the tenants') have assailed the order dated 21.09.2022 handed down by the Appellate Authority, Ludhiana, whereby the application (Annexure P-6), moved by the respondent-landlady (here-in-after to be referred as 'the landlady') for assessing and awarding the *mesne* profits @ Rs.50,000/- per month for the use and occupation of the demised premises, before staying the operation of the eviction order as passed against them (the tenants), has been allowed and they have been directed to deposit the *mesne* profits @ Rs.10,000/- per month from the date of the order of their eviction from the said premises.

2. As per the brief factual-matrix leading to the filing of the present revision petition, the landlady filed a petition against the tenants for seeking their eviction from the demised premises and vide the order dated

08.10.2021 (Annexure P-3), the Rent Controller allowed this petition while directing the tenants to vacate the said premises and to hand over the possession thereof to the landlady within two (02) months. The tenants preferred an appeal before the Appellate Authority to lay challenge to the afore-referred eviction order and the landlady moved the above-mentioned application there and the same has been allowed vide the impugned order.

3. I have heard learned counsel for the petitioners-tenants, at the preliminary stage, in this revision petition and have also perused the file carefully.

4. Learned counsel for the petitioners-tenants have argued that the demised premises had been let out to the tenants at the monthly rent of Rs.500/- but the Appellate Authority has erroneously assessed the *mesne* profits in respect of the same @ Rs.10,000/- per month, without properly appreciating its rental value and thus, the said assessed amount is quite exorbitant and unjustified and therefore, the same deserves to be reduced to the afore-mentioned amount, as actually agreed to be paid by the tenants as rent. They have placed reliance upon the verdict, as rendered by Hon'ble Supreme Court in **Sumer Corporation Versus Vijay Anant Gangan and others, 2022 SCC OnLine SC 1548**, in support of their contentions.

5. However, the above-raised contentions are bereft of any merit because in the impugned order, the Appellate Authority has categorically referred to the Rent Agreement dated 10.07.2021, whereby a shop situated in the same area wherein the demised premises is located, is stated to have been let out with the monthly rent @ Rs.31,000/- for the same purpose, i.e

running the business of hosiery items/goods but it has assessed the *mesne* profits qua the demised premises at much lesser rate and rather, equivalent to about 1/3rd of the same, i.e Rs.10,000/- per month which is more than reasonable and justified and can, by no stretch of imagination, be construed to be exorbitant or excessive at all.

6. The observations, as made by the Apex Court in **Sumer Corporation (supra)**, are of no help to the tenants because the facts and circumstances of the present case are distinguishable from those of the cited above. In the afore-said case, the rate of the *mesne* profits had been assessed by estimating the return on the market value/the value at which the respondents had acquired the rights of the suit property, as 6.5% per annum whereas in the instant case, as discussed earlier, the Appellate Authority has assessed the *mesne* profits while taking the rental income of the similar property located in the same area, into consideration.

7. As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the revision petition in hand, being *sans* any merit, stands dismissed.

04th January, 2023

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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*
Whether Reportable: *No*