

CR-2188-2024

Date of Decision: 16.04.2024

.....PETITIONERS

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Anupam Bhardwaj, Advocate for the petitioners.

GURBIR SINGH, J.

1. Challenge in this petition is to the order dated 20.03.2024 whereby application for mesne profit filed by the respondent has been allowed by the learned Rent Controller and an amount of Rs.20,000/- per month has been assessed by the Appellate Authority.

2. Brief facts which are necessary for the disposal of this petition are that respondent-landlord moved an application for ejectment of the petitioners from the demised shop. The ejectment petition was allowed vide order dated 19.10.2023. The petitioners filed an appeal which is pending before the learned Appellate Authority, Amritsar along with an application for staying the operation of the ejectment order. The respondent moved an application for assessment of mesne profit of the demised premises. The learned Appellate Authority vide impugned order dated 20.02.2024 ordered to pay the mesne profits @ Rs.20,000/- per month from the date of ejectment order till the disposal of the appeal.

3. Learned counsel for the petitioners has argued that the mesne profits which have been assessed by learned Appellate Authority is on the higher side. The petitioners had been regularly paying the rent at the agreed rate and there was no default on his part. The petitioners even relied on the rent notes Annexures P-6 and P-7 and the same were not taken into consideration and have also relied on rent note dated 28.04.2015, whereby shop opposite the Civil Hospital, Ajnala was let out @ Rs. 5000/- per month only. The petitioners also running the chemist shop in the demised premises.

4. Notice of motion.

5. Mr. V.K.Sandhir, Advocate appears and accepts notice on behalf of the respondent. Learned counsel for the respondent has argued that the rate of rent in that area is quite high. He has placed on the file a copy of the registered lease deed dated 16.06.2023, whereby said shop was let out @ Rs.15,000/- per month for the period of six years with further increase of 8% every year. He has also relied on one lease deed dated 18.01.2020, whereby shop was let out @ Rs.18,500/- per month. He has further submitted that the shop is situated in the Main Bazar, Ajnala. The amount of mesne profits assessed by the learned Appellate Authority is rather on the lower side.

6. I have heard the submissions made by learned counsel for the parties.

7. It is well settled that after passing of the ejectment order if the appeal is filed, then relationship of tenant-landlord comes to an end and petitioners can only retain the possession of the demised premises on the payment of prevalent market rate of the rent. The demised shop is situated in the Main Bazar of Sub Division Ajnala, District Amritsar. The Sub Division, Ajnala is at the border with Pakistan. On asking, the counsel for the parties

have stated that tenancy was created in the year 1975. For the assessment of the mesne profits, the Court is required to see the rental value of the property i.e. facilities provided by the lessor, infrastructure, type of business and condition of the premises etc. Although respondent has placed on the file two registered lease deeds of the nearby shops, but the demised premises is quite old one so rent for the demised shop cannot be same as mentioned in those lease deeds. The petitioners/tenants are required to pay reasonable mesne profit. Since there is no material to assess the exact mesne profits so the Court is required to fix the mesne profits on the basis of some guess work. In view of the Sub Division, where the shop is situated and quite old building, I am of the view that the assessment of mesne profits by the learned Appellate Authority is on the higher side. If it is assessed @ Rs.15,000/- per month then it can be on the lower side. The mesne profits are assessed @ Rs.17,500/- per month. The petitioners are liable to pay mesne profits @ Rs.17,500/- per month.

8. It is submitted that since the next date before the Executing Court is 07.05.2024 so, petitioners shall pay the mesne profits@ Rs.17,500/- per month for the period mentioned in the impugned order on or before the date fixed and further till disposal of the appeal to retain the possession of the property till the pendency of the appeal.

9. In case of default, this order shall automatically stand vacated.

16.04.2024
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(GURBIR SINGH)
JUDGE

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