IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

CR-3545-2024
Date of decision: 01.07.2024

MOTI LAL BINDAL ..Petitioner

Versus

VIVEK MITTAL AND ANR ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aakash Singla, Advocate
and Mr. Vikrant Bhardwaj, Advocate
for the petitioner.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is a tenant, who was ordered to be evicted by the Rent Controller. He filed the appeal along with an application for grant of stay of dispossession during the pendency of the appeal. The respondent-landlord filed an application for assessing mesne profits for use and occupation of the premises, which has been allowed and the court has assessed the mesne profits at the rate of Rs.10,000/- per month from 06.12.2023. Challenging its correctness, the petitioner has filed this revision petition.

2. This Bench has heard the learned counsel representing the petitioner at length and with their able assistance perused the paperbook

3. The learned counsel representing the petitioner has made the following submissions:-

i. The mesne profits can be assessed only if a stay is to be granted. In absence of stay, the order passed by the Appellate Authority is not sustainable.

ii. The Appellate Authority has relied upon an unregistered rent note of a shop located in the neighborhood. He submits that an unregistered document could not be relied upon.

iii. The respondent's brother filed a civil suit in the year 2016, which was decided in the year 2018, assessing the mesne profits at the rate of Rs.3,000/- per month.

4. This Court has considered the submissions of the learned counsel representing the petitioner.

5. The impugned order passed on 06.05.2024. A perusal of order dated 20.04.2024 and 29.04.2024, it is evident that there is an interim order operating in favour of the petitioner. Hence, there is no merit in the first submission.

6. With reference to the second submission, the Appellate Authority is required to assess the amount of mesne profits on the basis of material produced by the parties. In this case, the respondent-landlord has relied upon a photocopy of the rent note dated 31.01.2019, showing rate of rent at the rate of Rs.20,000/- per month with respect to the shop measuring 11 feet X 35 feet, whereas, the shop in dispute is 16 feet 1.5 inches X 13 feet 2 inches, hence, the Court assessed the mesne profits at the rate of Rs.10,000/- and not Rs.20,000/-. Moreover, the rent note of the other shop of January, 2019, whereas, the amount of mesne profits in this case was being assessed in the year 2024. Hence, there is no error in the assessment.

7. The last submission of the learned counsel representing the petitioner also lacks substance because the suit was filed in the year 2016. The assessment was made with respect to the date when the suit was filed.

With the passage of time and inflation, the rents have been increasing. Moreover, this is only an interim adjustment, which is applicable during the pendency of the appeal.

8. Keeping in view the aforesaid facts, no ground to interfere is made out.

9. Dismissed accordingly.

10. All the pending miscellaneous applications, if any, are also disposed of.

July 01st, 2024 **(ANIL KSHETARPAL)**
Ay **JUDGE**

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