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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR-4020-2024 (O&amp;M)

Date of Decision: 29.07.2024

M/s Bhandari Overseas and another

... Petitioners

VS.

Honey Sudhir and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present : Mr.Sandeep K. Sharma, Advocate,  
for the petitioners.Mr. Sunny Saggar, Advocate  
for the respondent/caveator.

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**RITU TAGORE, J.**

1. This revision is directed against the order dated 29.05.2024 by which learned Appellate Authority, Jalandhar, partly accepted the application dated 29.01.2024 (Annexure P-3) moved by the respondents/landlord(s) for determining the *mesne* profits for use and occupation of the rented premises i.e, shops No.11 and 12, comprised of basement and ground floor, part of the building No. 38 situated at Kapurthala road near Vasal hospital, Jalandhar.

2. Learned counsel for the petitioners contends that the ejectment petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 filed by the respondents against the petitioners was allowed vide order dated 29.08.2023 (Annexure P-1). The petitioners filed an appeal (Annexure P-2) against the order of ejectment. The respondents/landlord(s) filed an application

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dated 29.01.2024 (Annexure P-3) for determining the *mesne* profits for use and occupation of the demised premises from the date of ejectment until the final disposal of the appeal alongwith interest. The learned counsel contends that the learned Appellate Authority determined the *mesne* profits @ Rs.10,000/- per month for each shop from the order of ejectment (29.08.2023) onwards and directed to clear the arrears of rent.

3. Learned counsel argues that the order has been passed mechanically without considering various factors i.e., location, age and condition of the demised premises as well as the comparative analysis of the valuation of the lease in the concerned area, governing the determination of *mesne* profits. It is stated that the learned Appellate Authority, without any material on record, acted on conjectures and surmises to assess the *mesne* profits @ Rs.10,000/- per month, per shop. It is urged that the order is indefensible in the eyes of law and is liable to be set aside, with further prayer to direct the learned Appellate Authority to decide the application for assessment of *mesne* profits (Annexure P-3) afresh after giving the petitioners an opportunity to lead the evidence on the application.

4. Learned counsel for the respondents/landlord(s) conceded that the impugned order fails to demonstrate that the learned Appellate Authority, considered the relevant parameters necessary for determining the *mesne* profits. However, it is submitted that the learned Appellate Authority should be directed to decide the application afresh for determination of *mesne* profits, preferably within one month, after providing the respondents an opportunity to present their evidence.



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5. I have heard learned counsel for the parties and have perused the paper book with the valuable assistance of the learned counsel.

6. It is well settled that the tenant is liable to pay the mesne profits to the landlord if operation of the ejectment order is stayed by the learned Appellate Authority and said amount is subject to adjustment on final decision.

**In Angoori Devi and others Vs. Smt. Satya Bhama, 2016 (5) R.C.R. (Civil)**

**1043**, passed by Coordinate Bench of this Court, it has been held that ‘the contractual rent comes to an end when eviction order is passed’. However, the important aspect is that the Court, after giving opportunities to both the parties, need to determine the application for mesne profits, based upon authenticated material produced on record pending the appeal, summarily. For that, the Court needs to consider and take note of the Rent Control Legislation governing the particular premises/location, its nature-residential or non-residential, age and nature of construction of buildings/premises, market value and the rental value of the premises, other instances of rent of similarly situated premises, date of termination of tenancy. The Court needs to consider all these material factors after giving opportunities to both the parties.

7. Having considered the order impugned herein, it is explicit that it does not indicate that learned Appellate Authority considered the relevant parameters while determining the *mesne* profits. In view thereof, the order does not withstand judicial scrutiny and is liable to be set aside. Accordingly, the same is set aside with direction to the learned Appellate Authority to determine the *mesne* profits afresh after giving one effective opportunity to both the petitioners and the respondents/landlord(s) to lead their respective evidence on *mesne* profits and shall decide the matter within one month from the receipt of

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the copy of this order. However, the petitioners/tenants shall clear all the arrears of rent as due towards them.

8. It may be noted herein that the above-said discussion may not be construed as an expression on the merits of the case. The present discussion is purely for the deliberations made in the matter.

9. Pending application(s), if any, shall also stands disposed of.

**29.07.2024**  
smriti

**(RITU TAGORE)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No