



CR-4208-2024

1

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1.

CR-4208-2024

Devinder Kumar

... Petitioner

Versus

Shree Sanatan Dharam Sabha (Regd.)

... Respondent

2.

CR-4209-2024

Sadhu Ram through LRs

... Petitioner

Versus

Shree Sanatan Dharam Sabha (Regd.) and another

... Respondents

3.

CR-4210-2024

Pawan Kumar

... Petitioner

Versus

Shree Sanatan Dharam Sabha (Regd.)

... Respondent

4.

CR-4211-2024

Sardul Singh

... Petitioner

Versus



CR-4208-2024 **2**

Shree Sanatan Dharam Sabha (Regd.)

... Respondent

5. **CR-4212-2024**

Sanjeev Bansal @ Sanjeev Kumar

... Petitioner

Versus

Shree Sanatan Dharam Sabha (Regd.)

... Respondent

6. **CR-4242-2024**

Lachhman Singh

... Petitioner

Versus

Shree Sanatan Dharam Sabha (Regd.)

... Respondent

Date of decision : 03.10.2024

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Naveen S. Bhardwaj, Advocate
for the petitioner in CR-4208-2024, CR-4209-2024,
CR-4210-2024, CR-4211-2024 & CR-4212-2024.

Mr.Sandeep Punchhi, Advocate
for the petitioner in CR-4242-2024.

Mr.Binderjit Singh, Advocate
for the respondent in all the case.

VIKAS BAHL, J.(ORAL)

1. This order will dispose of six revision petitions i.e., CR-4208-
2024, CR-4209-2024, CR-4210-2024, CR-4211-2024, CR-4212-2024 and

**CR-4208-2024****3**

CR-4242-2024 as common questions of law and fact are involved in all the said cases. In all the six revision petitions, challenge is to the separate orders of the same date i.e. 19.07.2024 vide which the application(s) of the respondent-landlord for mesne profits has been disposed along with application for stay moved by the petitioner(s). With the consent of the parties, CR-4208-2024 is being taken up as the lead case.

2. Brief facts of the present case are that the respondent-landlord had filed six separate petitions for eviction under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 for ejectment of the petitioner(s)-tenant(s) from six different shops all situated in District Bathinda. The said shops are stated to be situated close to each other. In all the cases, vide separate orders dated 28.08.2023, the eviction petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 filed by the respondent-landlord was allowed and the petitioners were ordered to be evicted from the premises in question and were directed to vacate the said premises within a period of three months from the passing of the said order(s). Appeals were filed by all the petitioners against the said orders and along with appeal(s), application(s) for stay were also filed by the petitioners. The respondent-landlord had also filed application(s) for mesne profits in each of the six cases and the appellate authority as has been stated hereinabove, vide six different orders dated 19.07.2024 assessed the mesne profits to be Rs.22,000/- per month and directed the petitioners to pay the same on the following terms and conditions:-

“11. In the lights of the facts and the law exposted above, I find merit in the instant application and it is allowed



accordingly. The execution of the order appealed from is hereby stayed, pending the appeal filed by the appellant, subject to the following conditions:

(1) With effect from dated 28.08.2023, the date of the order passed by the Rent Controller, the appellant shall be liable to pay, or deposit for payment, to the respondent-landlord, mesne profits at the rate of Rs.22,000/- per month.

(2) The first such deposit shall be made on or before 31 July, 2024 consisting of the amount calculated up to that date. The appellant may adjust, by way of deduction, the amount, if any, paid by him to the respondent for this period.

(3) With effect from 1 August, 2024, the appellant shall continue to pay or deposit for payment to the respondent-landlord, an amount calculated at the same rate month by month and by the 15th day of that month.

(4) The respondent shall file an undertaking on affidavit, making a statement that the amount recovered by the respondent in terms of this order shall be refunded or remain available for adjustment in terms of any directions which this Court may make at the end. If any amount becomes liable to be refunded consistently with the decision of this Court in the appeal, the respondent shall refund the same, within the time appointed by the court for the purpose and the amount shall remain a charge on the demised premises.

(5) Non-compliance by the appellant with any of the terms stated in paras (1) to (3) above shall result in the order of stay passed by this Court being vacated and the respondent shall be free to execute the order and recover possession from the appellant. Similarly, non-



compliance by the respondent with the condition No.(4) stated hereinabove would disentitle it to receive the amount and the amount liable to be paid by the appellant shall be deposited in the Court and invested in fixed deposit from time to time.

12. It is made clear that the amount quantified by this Court in this order is only a tentative opinion formed by the Court on the basis of the material made available by the parties and is neither a determination of the actual amount for which the appellant may be held liable for payment to the respondent in duly constituted proceeding for the purpose nor is intended to be a reflection on the merits of the case.

13. The application under Order XLI, Rule 5, CPC moved by the appellant with a prayer to stay the execution of the order appealed from, pending the appeal filed by him, also stands disposed of accordingly.

14. To come up on dated 29.11.2024 for arguments on the appeal.”

3. Learned counsels for the petitioners have jointly submitted that the amount of Rs.22,000/- per month assessed by the appellate authority as being the amount of mesne profits is on the higher side inasmuch as it has been perversely observed that the prevailing rent for the same / similar building in the same locality is within the bracket of Rs.20,000/- to Rs.50,000/- per month. It is submitted that in fact the prevailing rate of rent in the locality is within the bracket of Rs.5,000/- to Rs.10,000/- per month. It is further submitted that even a perusal of the application dated 21.10.2023 filed for mesne profits would show that even as per the case of the respondent herein, the prevailing rent was around Rs.23,000/- with respect to the similar shops and for the rent to be Rs.50,000/-, reference was

**CR-4208-2024****6**

made to only one shop of one Monudeep. It is stated that the said shop of Monudeep cannot even remotely be compared with the shops in question inasmuch as the said shop of Monudeep is a corner shop which is open from two sides and is well furnished and has a very good parking area. It is further stated that the said Monudeep Aggarwal is in fact the son of Kewal Krishan Aggarwal, who is one of the members of the present respondent Sabha and thus, the said document cannot be taken on its face value. It is submitted that the said shop is at a distance of more than 500 karams from the shop in question and is in thick commercial area and thus, no reliance can be placed upon the same. It is further submitted that as per paragraph 7 of the application of mesne profits, it is the case of the present respondent himself that the shops which are at a distance of about 5-6 shops from the shop in question had been rented out at an approximate rent of Rs.23,000/- p.m. and thus, the fact of a similar shop fetching rent of Rs.50,000/- p.m. which is more than double the amount of rent of the shops of which reference has been made by the present respondent himself apparently is not comparable and should not be taken into consideration. Learned counsels for the petitioners have further referred to the rent note dated 29.02.2024 (Annexure P-4) and dated 06.10.2023 (Annexure P-5) to show that the rent of the property in the adjoining area is Rs.7000/- and Rs.6000/- respectively. It is thus prayed that mesne profits which have been awarded deserve to be substantially reduced.

4. Learned counsel for the petitioner appearing in CR-4242-2024 has submitted that the petitioner in the said petition is not financially very

**CR-4208-2024****7**

well and has prayed that the petitioner be granted two months time to deposit the arrears of mesne profits which would be finally assessed by this Court.

5. On the other hand, learned counsel for the present respondent-landlord has submitted that even the rent note with respect to the shop which is at a distance of 5-6 shops away i.e. the shop which was rented to Mandeep Singh who is paying rent of Rs.23,642/- per month plus taxes and another shop which is shop no.2, which is also very close to the shops in question has been given on rent to one Ramesh Kumar for Rs.23,014/- and it is thus, submitted that the amount of mesne profits assessed as Rs.22,000/- per month is in accordance with law and the same deserves to be upheld. With respect to the rent agreement dated 29.02.2024 (Annexure P-4) it has been stated that the said rent note was entered into on 01.12.2023 and the same is after the date of eviction i.e. 28.08.2023 and thus, the same should not be taken into consideration. Similar argument has been raised with respect to rent agreement dated 06.10.2023 (Annexure P-5) and it has been submitted that both the rent agreements should not be taken into consideration and has prayed that the impugned order is in accordance with law and deserves to be upheld. It is further submitted that although the petitioners in five revision petitions except CR-4242-2024 have complied with the impugned order but the petitioner in CR-4242-2024 has not paid the mesne profits.

6. This Court has heard the learned counsel for the parties and has perused the paper book.



CR-4208-2024

8

7. A Coordinate Bench of this Court in ***Angoori Devi and others vs. Smt. Satya Bhama*** decided on 06.04.2016 passed in ***CM-2343-CII-2024 in CR-6248-2011*** had after considering the law laid down by the Hon'ble Supreme Court in the case of ***Anderson Wright (supra)*** as well as ***M/s Atma Ram Properties Pvt. Ltd. Vs. M/s Federal Motors Pvt. Ltd. reported as 2005(1) RCR (Rent) 1***, observed that the Courts have to draw a balance between the two competing claims by fixing the mesne profits at a rate between the contractual rate and the market rent and for the same, there is no straight jacket formula and the Court would have to be guided by the facts of each case.

8. From the facts and documents highlighted on behalf of both the parties, this Court is of the opinion that the most relevant shop for the purpose of comparison would be the shop which has been let out to Mandeep Singh, which as per the case of the present respondent-landlord is at a distance of 5-6 shops from the shops in question and which further as per the case of the respondent-landlord is fetching the rent of Rs.23,642/-. The relevant portion of paragraph 7 of the application for mesne profits dated 21.10.2023 with respect to the said shop is reproduced hereinbelow:-

“7. That one shop of applicant Sabha i.e. Shop bearing No.7 MR abutting Mall Road, is situated at a distance of about 5-6 shops from shop in question, which is on rent with Mandeep Singh who, at present, is paying rent of Rs.23,642/- per month + taxes thereon, to applicant Sabha. Copy of rent note, rent receipts issued by the applicant Sabha to Mandeep Singh and copy of site plan are attached herewith.”

9. Learned counsel for the petitioners have also not been able to

**CR-4208-2024****9**

show that the said shop is any way materially different either in location or in the amenities provided, from the shops in the question. The relevant date of consideration in the present case is the date of eviction which is 28.08.2023. Although certain rent agreements dated 29.02.2024 and 06.10.2023 have been relied upon by the tenant to show that the rate of rent is Rs.7000/- Rs.6000/- but the said documents have come into existence after passing of the eviction order and there is no detail as to whether the said shops are situated close to the shops in question or not and thus, cannot be the best documents to be relied upon. As has been observed hereinabove, it has been held in the case of *Angoori Devi and others (supra)* that the Courts are required to draw a balance between the two competing claims and the mesne profits are to be fixed at a rate between the contractual rate and the market rent. The contractual rate of rent is stated to be Rs.10,000/- per annum as on 01.03.1997 and thus, the same was fixed several decades earlier. A reasonable deduction thus, is required to be made from the prevailing rent of the best and the most comparable shop which has been let out at Rs.23,642/-.

10. On carrying out the said exercise, this Court is of the opinion that the mesne profits with respect to all the shops in question deserves to be assessed at Rs.15,000/- per month and accordingly, all the six revision petitions are partly allowed and the order dated 19.07.2024 is modified to the extent that in stead of mesne profits being assessed at the rate Rs.22,000/- per month, the same would be taken to be Rs.15,000/- per month. The other conditions would be the same as have been detailed in



CR-4208-2024

10

paragraph 11 of the order dated 19.07.2024 passed by the appellate authority, the relevant portion of which has been reproduced hereinabove, in the five revision petitions i.e., CR-4208-2024, CR-4209-2024, CR-4210-2024, CR-4211-2024 & CR-4212-2024. With respect to CR-4242-2024 on account of the fact that it has been stated that the petitioner therein has financial constraints and it has also been brought to the notice of this Court by learned counsel for the respondent that the petitioner has not complied with the directions given by the appellate authority of depositing the amount, this Court directs the petitioner in CR-4242-2024 to deposit the arrears of mesne profits at the rate of Rs.15,000/- p.m. w.e.f. 28.08.2023 within a period of two months from today i.e., upto 02.12.2024 and would pay the mesne profits at the rate of Rs.15,000/- p.m. by the 15th of every month starting from October 2024. The other conditions however will remain the same.

(VIKAS BAHL)
JUDGE

October 03, 2024.
Davinder Kumar

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