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

118

Date of Decision: 02.09.2024

1. CR No.4747 of 2024

Daljit Singh ..... **Petitioner**

Versus

Vinay Gupta ..... **Respondent**

2. CR No.4992 of 2024

Vinay Gupta ..... **Petitioner**

Versus

Daljit Singh ..... **Respondent**

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. M.S. Sachdev, Advocate
for the petitioner (in CR-4747-2024 through VC).

Mr. Aditya Dassaur, Advocate and
Ms. Prinkle Singla, Advocate and
Ms. Lakshita Dassaur, Advocate
for the petitioner (in CR-4992-2024).

*****

VIKAS BAHL, J (ORAL)

1. This order shall dispose of two revision petitions, i.e., CR-4747-2024 titled as 'Daljit Singh Vs. Vinay Gupta and CR-4992-2024 titled as 'Vinay Gupta Vs. Daljit Singh' challenging the same impugned order dated 30.07.2024 vide which the Appellate Authority, Jalandhar, while

disposing of the application for stay filed by the tenant and application for mesne profits filed by the landlord, had granted stay till the disposal of the appeal subject to the condition that the tenant would pay mesne profits at the rate of Rs.20,000/- per month from the date of passing of the ejectment order dated 06.01.2024, within a period of one month from the date of the impugned order i.e., 30.07.2024 and shall keep on paying the same by 10th of every month at the said rate.

2. CR-4747-2024 has been filed by the tenant seeking setting aside of the impugned order dated 30.07.2024 and CR-4992-2024 has been filed by the landlord seeking enhancement of the mesne profits assessed.

3. Brief facts of the present case are that Vinay Gupta-landlord had filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act against Daljit Singh-tenant for ejectment of the tenant from shop No.1 forming part of building No.264, Adarsh Nagar, Jalandhar and the said shop was bounded as under:-

> "*East :* *Veranda and thereafter road;*
> *West :* *Residential accommodation of Building No.264;*
> *South :* *Road;*
> *North:* *Shop No.2 rented out to Indra Sharma and now in possession of Ranjit Patel"*

4. The eviction was sought on the grounds of arrears of rent as well as personal necessity and vide order dated 06.01.2024, eviction was ordered on the ground of personal necessity. The tenant-Daljit Singh filed an appeal before the Appellate Authority, Jalandhar and also filed an application for stay of the judgment of the Rent Controller. The landlord, on the other hand, filed an application for directing the tenant to pay mesne

profits @ Rs.35,000/- per month from the date of passing of the ejectment order. The said mesne profits application has been annexed as Annexure P-6 along with CR-4747-2024. In the said application it had been stated that the shop in question was situated at the best commercial place of Jalandhar, i.e., Adarsh Nagar Market, Jalandhar and that the shop was open from two sides and was beautifully located and even the photographs of the shop in dispute as well as of the nearby shops were attached. It was averred that Adarsh Nagar Market had many big showrooms including Archies Gallery, big bakeries, eating joints, hotels, grocery shops and other big commercial establishments and that the shops in the vicinity had been let out at a minimum amount of Rs.25,000/- per month. Along with the said application, two rent notes with respect to premises which were 6-7 shops away from the shop in question were attached and the said rent notes were registered documents and on the basis of the same, the prayer for directing the tenant to pay Rs.35,000/- per month as mesne profits was made.

5. Reply (Annexure P-7) was filed by the tenant in which it was stated that the shop in question was very old and there were no modern amenities. In the said reply, it was admitted that the shop in question was situated at Adarsh Nagar Market, Jalandhar but it was denied that the said market was the best commercial place of Jalandhar and even the contention of the landlord to the effect that the shops in the vicinity had been let out, at a minimum rate of Rs.25,000/- per month was denied. It was stated that the rate of rent was Rs.3044/- per month and even at present, the properties were being let out at the same rate of rent.

6. The Appellate Authority, Jalandhar vide order dated

30.07.2024, as has been stated hereinabove, assessed the mesne profits at the rate of Rs.20,000/- per month from the date of passing of the ejectment order dated 06.01.2024. In coming to the said conclusion, it was observed that the tenant had not produced on record any document whereas the landlord had produced on record two registered rent agreements dated 22.09.2020 and 30.01.2020 and that the shop in question was 9 x 25 feet. The fact that the tenant was in occupation of the premises since 10.07.1989 was also taken into consideration.

7. Learned counsel for the tenant has submitted that the petitioner was initially inducted as a tenant on 10.07.1989 at Rs.800/- per month rent and the said rent had been repeatedly increased by the previous landlord and in the year 2020, the rent was Rs.3044/- per month. It is submitted that the rent of the premises is even till date is Rs.3044/- per month and the reliance on the rent deeds dated 30.01.2020 (Annexure P-8) and 22.09.2020 (Annexure P-9) is misconceived. With respect to the rent deed dated 30.01.2020 (Annexure P-8), it has been submitted that the property therein includes a basement in 'L' shape whereas there is no basement in the premises in question. It is further submitted that in the premises in the rent deed dated 30.01.2020, the business of fast food veg/non-veg is being carried out whereas the business of the petitioner is that of a juice shop. With respect to the rent deed dated 22.09.2020 (Annexure P-9), it has been submitted that the same measures 12 x 25 feet whereas the shop in question is 9 x 25 feet. It is submitted that the premises in the rent deed dated 22.09.2020, is a new building whereas the premises in question is an old building. It is submitted that as per settled law, the landlord is not to be

paid market rent after eviction and only a reasonable compensation is to be paid to the landlord by the tenant. In support of his arguments, learned counsel for the petitioner has relied upon the judgment of a Coordinate Bench of this Court in the case of ***'Angoori Devi and others Vs. Smt. Satya Bhama'***, decided on 06.04.2016 passed in ***CM-2343-CII-2014 in CR-6248-2011*** as well as on the judgment of a Coordinate Bench of this Court in the case of ***'Bahadur Singh and another Vs. Santosh Rani'***, decided on 30.01.2024 passed in ***CR-13-2023***.

8. Learned counsel for the landlord, on the other hand, has submitted that the petitioner had not produced on record any rent note, much less, a registered rent note to show as to what rate of rent was prevailing in the market on the date of the eviction, i.e., 06.01.2024. It is submitted that the landlord had produced on record two registered documents dated 30.01.2020 and 22.09.2020. It is submitted that both these documents/registered lease deeds were with respect to shop/building No.269 whereas the premises in question is a part of building/shop No.264 and thus, is in close vicinity. It is further submitted that a perusal of the rent deed dated 30.01.2020 (Annexure P-8), would show that the area of the ground floor is 8 x 10 feet whereas the area in the present case is 9 x 25 feet and further more as per Clause 11, the rent to the extent of 10% is to be increased after every two years and thus, the rent as per the said deed dated 30.01.2020, on the date of the order of eviction would be around Rs.30,000/- per month. Similar submissions have been made with respect to the rent deed dated 22.09.2020. Learned counsel for the landlord has referred to the site plan (Annexure P-10), annexed in the petition filed by

the tenant, to show that even a perusal of the said site plan would show that the shop in occupation of the tenant is open from two sides and there is a road in front of the shop and that the shop is ideally located. Reference has also been made to the photographs (Annexure P-7), which have been annexed along with CR-4992-2024, to highlight the fact that the shop is open from two sides.

9. Learned counsel for the landlord has further submitted that in the case of ***Angoori Devi (supra)***, reference has been made to the judgment of the Hon'ble Supreme Court in the case of ***Anderson Wright and Company Vs. Amar Nath Roy and others reported as 2005(1) RCR (Rent) 624,*** in which it was observed that from the date of decree of eviction, the tenant is liable to pay mesne profits for use and occupation of the premises at the same rate at which the landlord would have been able to let out the premises on the date of eviction.

10. This Court has heard learned counsel for the parties at length and with their able assistance perused the paper book of both the cases.

11. Both the learned counsel have relied upon the judgment of the Coordinate Bench of this Court in the case of ***Angoori Devi (supra)***. A perusal of the said judgment would show that 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,*** the Coordinate Bench of this Court had 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.

12. From the above stated facts and circumstances and the arguments raised on behalf of the tenant as well as the landlord, certain undisputed facts have emerged. The eviction order in the present case is dated 06.01.2024 and thus, the relevant date for consideration, as to what should be the amount of mesne profits would be 06.01.2024. The tenant has not produced on record any rent deed of any shop in the vicinity, much less, a registered rent deed/lease deed. On the other hand, the landlord has produced on record two registered lease deeds. The first deed is dated 30.01.2020, which was executed approximately 4 years prior to the date of eviction order dated 06.01.2024 and which shows that the premises therein had been let out at Rs.25,000/- per month. The same is pertaining to shop/building No.269 situated at Adarsh Nagar Market, Jalandhar whereas the shop in question is a part of building/shop No.264 and is thus, situated in close vicinity. The premises therein on the ground floor measures 8 x 10 feet whereas the premises in the present case is 9 x 25 feet but in addition to the ground portion, there is a basement in 'L' shape which has also been provided in the rent deed dated 30.01.2020. In the said rent deed dated 30.01.2020, Clause 11 specifically states that the rent would increase by 10% after every two years and thus, the same would have been approximately Rs.30,000/- per month in January, 2024. It is the case of the tenant that the business of fast food veg/non-veg has been carried out in the premises in rent deed dated 30.01.2020 whereas in the present case, the premises in question is only a juice shop. The rent deed dated 22.09.2020

(Annexure P-9) is also of the year 2020 and the rent in the same was fixed as Rs.25,000/- per month and the same also pertains to shop/building No.269, as is in the rent deed dated 30.01.2020, and thus is in close vicinity to the shop in question. The area, however, is 12 x 25 feet, which is more than the area of the shop in question, i.e., 9 x 25 feet. A perusal of the said lease deed would show that there is a shop, hall and latrine bathroom, which as per the case of the tenant is not there in the present shop. In the said circumstances, it can be seen that the rent of a slightly better premises, around the area where the shop in question is situated, would be more than Rs.20,000/- per month on the date when the order of eviction was passed, i.e., 06.01.2024.

13. This Court is of the opinion that the Appellate Authority, Jalandhar vide its impugned order dated 30.07.2024 has rightly balanced the rights between the tenant and the landlord and has taken into consideration the fact that the tenant was inducted on 10.07.1989 and has correctly assessed the mesne profits at the rate of Rs.20,000/- per month from the date of the passing of the eviction order and thus, the said order does not call for any interference.

14. Keeping in view the above said facts and circumstances, the order dated 30.07.2024 is in accordance with law and deserves to be upheld and both the petitions are meritless and accordingly, the same are dismissed.

(VIKAS BAHL)
JUDGE

02.09.2024
D.Bansal

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