IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

123(4)

CR-4106-2025(O&M)
Date of decision: 10.07.2025

Gulshan Kumar & Others

...Petitioner(s)

Vs.

Sukhcharanjit Singh Thind

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Gurcharan Dass, Advocate
for the petitioners.

Mr. Namit Gautam, Advocate
for the respondent.

***

NIDHI GUPTA, J.

Present Revision Petition has been filed by the tenant against the order dated 22.05.2025 passed by ld. Rent Appellate Authority whereby mesne profits have been fixed at the rate of Rs.75/- per square feet in respect of the demised shop measuring 308.22 square feet; and monthly rental value has been assessed as Rs.23,116/- from the date of order of eviction i.e. 5.12.2024 till final disposal of appeal filed by the petitioners. Further direction has been issued to the petitioner to deposit arrears of mesne profits from 05.12.2024 till date, within two months. On these conditions, order of eviction passed by the learned Rent Controller has been stayed.

2. Mr. Namit Gautam, Advocate puts in appearance on behalf of the respondent/landlord and files Memorandum of Appearance, which is taken on record.

3. Learned counsel for the petitioner submits that the mesne profits as determined by the learned lower Appellate Authority are on the higher side as it has failed to appreciate that the premises occupied by the petitioner are very small measuring only 308.22 square feet. It is submitted that the petitioner is running a small tea shop, whereas mesne profits have been fixed at exorbitant rate. Moreover, in passing the impugned order, the learned Appellate Authority has failed to take into consideration the Lease Deeds produced by the petitioner, the same being Rent Deed dated 01.02.2025 (Annexure P13), as per which rate of rent per square feet has been determined to be Rs.33.9/- per month for an area of 506 square feet. Similarly, the learned lower Appellate Authority has also ignored the Deed dated 05.12.2024 (Annexure P8) produced by the petitioner. It is accordingly prayed that the impugned order dated 22.05.2025 be set aside.

4. Per contra, ld. counsel appearing on behalf of the respondent vehemently opposes prayer made on behalf of the petitioners and submits that the respondent had produced Lease Deeds in respect of shops which were in close proximity of the demised premises which had been let out on a monthly rent of Rs.2,80,000/- per month with increase of 15%

after 3 years. It is accordingly prayed that the impugned order suffers from no error and the present petition deserves to be dismissed.

5. No other argument is made on behalf of the parties.

6. I have heard ld. counsel and perused the case file in great detail. I find no merit in the submissions made on behalf of the petitioner.

7. Brief facts of the case are that the demised premises is describable as Shop No.5 and 6 and a store forming part of the building known as Thind Building, Ferozepur Road, Bhai Bala Chowk, Ludhiana. Shop in dispute was let out to the grandfather of the petitioner in the year 1963 at the rate of Rs.30/- per month. In 1975, another shop was taken on rent i.e. shop No.5 and store, total rent for both the shops and store is Rs.410/- per month. At the time of filing of Rent Petition on 24.05.2019, the petitioner was paying rent of Rs.410/- per month. The respondent had sought eviction of the petitioner from the demised premises on account of personal necessity; and the demised premises being unfit and unsafe for human occupation. Vide order dated 05.12.2024 (Annexure P1), the learned Rent Controller, Ludhiana has allowed the Rent Petition of the respondent on both the above grounds.

8. The order of eviction dated 5.12.2024 was challenged by the petitioner before the Rent Appellate Authority by way of Appeal dated 17.01.2025 (Annexure P2) accompanied by an application dated 17.01.2025 (Annexure P3) for staying the operation of the impugned order. The

respondent had also filed an application dated 14.02.2025 for assessment of mesne profits (Annexure P5). Keeping in view the location and size of the demised premises and the fact that it is a commercial property situated in the commercial hub of Ludhiana and also considering the rental value of commercial buildings, as also been keeping in view the commensurate Lease Deeds produced by the respondent, the impugned order was passed.

9. It is not denied by ld. counsel for the petitioner that the demised shop is situated in the heart of Ludhiana in Feroze Gandhi Market, which is the main market of Ludhiana. The five-star hotel Park Plaza is situated opposite the demised premises. It is a commercially very rich and viable area. In fixing the mesne profits the learned Appellate Authority has taken into consideration a registered Lease Deed dated 22.12.2017 in respect of a shop which is situated merely 30 metres away from the demised shop where the monthly rent is Rs.72,260/- and square feet rent came to Rs.131.6/- per sq. ft. Ld. Appellate Authority has also taken into consideration another registered Lease Deed dated 09.04.2018 in respect of a shop which is situated merely 15 metres away from the demised shop where rent is paid at the rate of Rs.50,000/- per month. The tenant has failed to rebut these Lease Deeds.

10. As regards the argument of learned counsel for the petitioners that Release Deeds (Annexure P11 and P12) have not been taken into consideration by the learned Appellate Authority at the time of passing

of impugned order, the said argument is liable to be rejected as fixation of mesne profit is a summary procedure; where summary inquiry is required to be conducted into the material produced by the parties. Even otherwise, the said documents are Rent Deeds; and as per Rent Deed dated 01.02.2025 (Annexure P11), the premises therein have been rented out at the rate of Rs.17,000/- per month.

11. Furthermore, as per recent judgment of Co-ordinate Bench of this Court in **Jatinder Singh Vs. S. Prabhpreet Singh (Punjab and Haryana) Law Finder Doc ID # 2682713,** it is held that Mesne profits in commercial properties have to be assessed as per the gold index. Relevant extract of the above judgment is as follows: –

> *"6. On the other hand, learned counsel representing the respondent/landlord submits that the entire area wherein the demised property is situated, happens to be commercial as even the petitioner-tenant himself is running separate/different businesses in other adjoining premises though owned by his mother. Learned counsel further points out that in such circumstances, the petitioner-tenant has no justification to oppose the fact that the demised property being situated in the heart of commercial locality was having potential to fetch higher rate. As regards the judicial notice been drawn by the Appellate Authority in this regard while making assessment of mesne profits, learned counsel relies upon the decision rendered by the Hon'ble Apex Court in case of **'Rattan Arya v. State of Tamil Nadu' reported as 1986 (2) RCR (Rent) 328**.' Relevant extract thereof is reproduced hereunder:-*

> *"We are entitled to take judicial notice of the enormous multifold increase of rents throughout the country, particularly in urban areas. It is common knowledge today that the accommodation which one could have possibly got for Rs. 400 per month in 1973 will today cost at least five times more. In these days of universal, day today escalation of rentals any ceiling such as that imposed by Section 30(H) in 1973 can only be considered to be totally artificial and irrelevant today."*

*Similarly, reliance has also been placed upon the decision rendered by this Court in case of **'Pardeep Kumar v. Rajinder Kumar Shukla and another' CR No. 86 of 2014** decided on 11.01.2024. Relevant extract thereof is extracted as under:-*

> *"When there is no particular document then one of the criteria which a Court can take guidance is about the rate of gold which is directly proportional to the rate of inflation. In the year 1999, the rate of gold was Rs. 4234 - per 10 grams and today it is Rs. 64,500 - per 10 grams. So, it can be said that rate of gold is increased by 15.25 times from 1999."*

7. I have learned counsel for the parties and gone through the paper book.

8. In the present case, the demised premises was rented out in favour of petitioner-tenant in the year 1989 @ Rs. 1500/- per month. Eviction order was passed against the petitioner-tenant at the instance of respondent-landlord vide decision dated 03.07.2023 by the Rent Controller, Amritsar. Upon an application filed on behalf of the respondent-landlord seeking mesne profits, the same was assessed @ Rs. 25,000/- per month by the Appellate Authority vide impugned order dated 18.05.2024.

Relevant paragraph No.9 from the impugned order is extracted hereunder:-

> *"9. In the present case, mesne profits has been demanded @ Rs. 50,000 - to 70,000 - per month but no material to substantiate the same has been placed on record. At the same time, this court needs to adopt some rules of rationality in such assessment. There cannot be any exact formula for assessing mesne profits, but it must commensurate with rate of inflation. In such circumstances this Court has been left with no option to assess the mesne profit on the basis of estimation and judicial notice of the market rate in that market which is also assessed on the basis of area occupied. It has em erged out that property in occupation of tenant is about 50 yards Keeping in view the overall circumstances, this Court feels that for such property in Amritsar, mesne-profits in Amritsar cannot be less than Rs. 20,0007-per month though demand is for 750,000 - to 70,000 -per month. Accordingly, mesne profits are ordered to be fixed @ 725,000 - per month from the date of eviction during the entire continuation of appeal."*

9. In the humble opinion of this Court, the submission raised on behalf of learned counsel for the petitioner/tenant that the assessment of mesne profits made by the Appellate Authority on the basis of self-estimation and judicial notice of the market rent was impermissible, essentially lacks merit. The Hon'ble Apex Court in case of ***'Rattan Arya (supra)*** *went on to assess the rent while recording that the Court was well within its right to take judicial notice of enormous multifold increase of rents throughout the country in the urban areas. In the present facts,* *the demised shop measuring 50 Sq. yards (528 Sq. feet) is situated in urban area of Amritsar forming part of a commercial locality ie. Katra Sher Singh, Amritsar. The photograph pertaining to the demised property which has been placed on record by respondent-landlord in his petition bearing No.CR No.4158 of 2024 at page 78 at Annexure P-ll and has not been disputed by the petitioner-tenant clearly shows that the same is constituent of fully developed commercial area and in such circumstances, no illegality can be found with the estimation made by the Appellate Authority while taking judicial notice about the rate of rent qua the same.*

10. Though some substance can be found in the submission made on behalf of the petitioner-tenant that reliance cannot be placed upon the lease deed dated 16.05.2023 especially when the proximity and location of two premises has not been got compared on record and the said lease was presented by the respondent-landlord only at the time of making final submissions on the application qua determination of mesne profits.

11. Furthermore, considering the fact that the demised premises forms part of an already developed commercial area-thickly surrounded by many other establishments, applying the formula/principles followed by this Court in case of Pardeev Kumar (supra), wherein guidance on the issue of assessment of mesne profits was drawn from the proportionate inflation towards the price of gold from the date of inception of tenancy till the date of ejectment order, the determination of mesne profits in the case in hand comes to around Rs. 31,500/- per month (gold rate in the year 1989 was @ Rs. 3140/- per 10 grams as compared to the rates on 03.07.2023 @ Rs. 66,000/-

per 10 grams, as per which appreciation comes to around 21 times). Accordingly, the impugned order dated 18.05.2024 is hereby modified, thereby assessing the mesne profits @ Rs. 31,500/- per month. The time for payment of total outstanding arrears towards mesne profits is extended upto 31.08.2024 and further till disposal of the appeal, payment of mesne profits @ Rs. 31,500/- per month shall be made by 7th of every month and if there is holiday on the said day, payment be made on the next working day. In case of default this interim stay against eviction shall automatically stands vacated.

12. In view of above, the revision petition preferred by the petitioner-tenant is dismissed and the revision petition filed at the instance of respondent-landlord is partly accepted in the aforesaid terms.

13. Considering the fact that the ejectment petition in the present case on the plea of bona fide necessity was filed at the instance of respondent/landlord on 30.05.2018 and the eviction order was passed on 03.07.2023 and the first appeal is pending consideration for the last almost 01 year, the Appellate Authority is requested to decide the appeal on the date fixed or a month thereafter."

12. It is baffling to this Court as to how the petitioner is occupying the demised premises since 1963 on rent of mere Rs.410/- per month. Despite the fact that the Demised premises is admittedly situated in the commercial hub of Ludhiana.

13. Learned counsel for the petitioner is unable to dispute the above-said factual and legal position.

14. In view of the above, present petition is **dismissed.**

15. Pending application(s) if any also stand(s) disposed of.

10.07.2025 **(Nidhi Gupta)**
Sunena **Judge**

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