

(2012) 10 P&H CK 0113

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 6015 of 2012 (O and M)

Punjab and Sind Bank and
Another

APPELLANT

Vs

Surinder Mohan Mahajan and
Another

RESPONDENT

Date of Decision: Oct. 11, 2012

Acts Referred:

- Constitution of India, 1950 - Article 227

Hon'ble Judges: Jaswant Singh, J

Bench: Single Bench

Advocate: I.P. Singh, tenants, for the Appellant; Chetan Mittal and Mr. Kunal Mulwani,
Advocate for Caveators, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Jaswant Singh, J.

Petitioners(tenants) are in revision under Article 227 of the Constitution against the order dated 13.08.2012 (Annexure P-1) passed by learned Appellate Authority, Chandigarh whereby it has determined the mesne profits at the rate of Rs. 3,21,871/- per month from 09.01.2012. In brief, facts of the case are that the learned Rent Controller, Chandigarh had allowed the eviction petition of the respondents(landlords) vide its order dated 09.01.2012 and against the same, the present petitioners had preferred an appeal before the Appellate Authority, Chandigarh. During the pendency of the said appeal the respondents(landlords) had moved an application for assessment of mesne profits and on the other hand the petitioners(tenants) had moved an application for staying the operation of the order of eviction dated 09.01.2012. Vide the impugned order dated 13.08.2012, the learned Appellate Authority, Chandigarh had assessed the mesne profits at the rate of Rs. 3,21,871/- per month after taking into consideration various lease deeds that

were relied upon by the respondents(landlords) and conditional stay was granted. Aggrieved against the said order the present petition has been filed.

2. I have heard learned Counsel for the petitioners(tenants) and have perused the paper book carefully with his able assistance.

3. Learned Counsel for the petitioners(tenants) has vehemently argued that learned Appellate Authority, Chandigarh has illegally assessed the mesne profits at such a high rate although at present the prevalent market rate is not so high at all. It was argued that the petitioners is a nationalised bank and the premises is being used for running of the branch of the bank which is providing essential services to the residents/customers of the bank and, therefore, the mesne profits that has been assessed is on the higher side.

4. After hearing learned Counsel for the petitioners(tenants) and learned Counsel for the caveators(landlords) and perusing the paper book with their able assistance, this Court finds that the present petition is devoid of any merit and the same deserves to be dismissed. The learned Appellate Authority has considered the various lease deeds that were placed on record by the respondents(landlords) and thereafter mesne profits was assessed for the present property. The relevant extract of the order passed by the learned Appellate Authority is being reproduced as under:-

The disputed premises is a bay shop No. 83, Sector 15-D, Chandigarh. The covered area is 1245 square feet. The lease deed dated 08.07.2009 pertains to SCO No. 64-65, Sector 15-D, Chandigarh, comprising of entire ground, first and second floors. The lease was for a period of 10 years commencing from 15.08.2009 and the monthly rent fixed was Rs. 3,70,000/- with increase of 6% every year on the last paid rent. The current rate of rent till 14.08.2012 is Rs. 4,15,732/- per month and for next year it will be Rs. 4,40,675/-. This lease deed is in favour of M/s. Gopal Sweets. The area being 1300 square feet, the rent per square feet comes to Rs. 338.98 paisa. When multiplied with the area i.e. 1245 square feet, the market rental value of disputed premises comes to Rs. 4,22,031/- per month.

There is another lease deed executed on 01.08.2007, vide which SCO No. 80-81, Sector 15-D, Chandigarh, comprising an area of 967 square feet, has been let out to State Bank of Patiala for running a branch therein. The lease deed was executed for a period of 5 years with two renewal options of 5 years each to be exercised by the bank. Fresh lease deed is agreed to be executed at the time of each renewal. The monthly rent agreed to be paid was Rs. 2,00,000/-. This lease deed having been executed by a nationalized bank, the plea raised on behalf of appellants-tenants that public money is involved thus does not hold any further ground.

Taking the lease money agreed to be paid by State Bank of Patiala vide lease deed dated 01.08.2007 to be the basis for determining the mesne profits, the market value per square feet per month comes to Rs. 206.82 paise. It does not make any

difference that premises in occupation of the appellant bank is a bay shop while the premises in question of State Bank of Patiala is a part of an SCO. There is no dispute that the premises in occupation of appellant bank and SCO No. 80-81 are situated close to each other on the same road.

Both the appellant bank and State Bank of Patiala are running their branches in the area under their occupation. By calculating the market value at the rate of ₹ 206.82 paise per square feet, the rental value for an area measuring 1245 square feet, which is in occupation of the appellant bank, comes to Rs. 2,57,497/-.

As this value has been calculated on the basis of rent settled five years back, the present market rental value must have increased. Giving an increase of 25% i.e. at the rate of 5% per annum, the increase by 25% comes to Rs. 64,374/-, which is a lumpsum increase whereas in the market the increase per annum is calculated on the last rent paid. The current market rental value of the premises in dispute is accordingly held to be Rs. 3,21,871/-. The appellants-tenants are, therefore, directed to pay a sum of Rs. 3,21,871/- per month as mesne profits.

5. As is evident from the above mentioned discussion made by learned Appellate Authority, this Court finds that the learned Appellate Authority had rightly assessed the mesne profits after taking into consideration the lease deed executed by another nationalized bank namely State Bank of Patiala for Rs. 2 lacs executed on 1.8.2007. In the opinion of this Court State Bank of Patiala as on equal footing with the present petitioners-bank. It is also to be seen that the rate of rent has appreciated enormously in the past few years and considering the entire conspectus of the facts and the prevalent position of market, this Court finds that the learned Appellate Authority, Chandigarh has rightly assessed the rent and there is no illegality or perversity in the same. In view of the above, finding no merit in the present revision petition, the same is hereby dismissed.