

SUPREME COURT OF INDIA

Sadhu Ram

Vs.

Parminder Singh

C.A.No.4760 of 2008

(Tarun Chatterjee and Aftab Alam JJ.)

01.08.2008

ORDER

1. Leave granted.

2. This appeal is directed against an order dated 24th September, 2007 passed by a learned Judge of the High Court of Punjab and Haryana at Chandigarh in Civil Revision Petition No.3494 of 2007 whereby the High Court had dismissed the revision petition filed by the tenant/appellant.

3. An eviction proceeding was initiated against the appellant in respect of a shop on the ground floor of Shop-cum-Flat NO.5 Sector 20-C, Chandigarh in which the appellant was inducted as a tenant at a monthly rental of Rs.500/- per month by the respondent. Subsequently, in the month of April, 2007, an eviction petition was filed by the respondent/landlord on the ground of personal need which was allowed by Rent Controller and against the said order of Rent Controller; an appeal was filed before the Appellate Authority which is still now pending. During the pendency of the appeal before the Appellate Authority, the landlord filed an application for determination of the provisional rent/mesne profits inter alia claiming rent @ Rs.58 sq.ft/Rs.55 sq. ft. The Appellate Authority on the said application for determination determined the provisional rent/mesne profits @ Rs.59/-sq. ft (Rs.9600/- per month) and feeling aggrieved by such determination, the appellant had filed a revision petition which was dismissed by the impugned order.

4. Feeling aggrieved by the aforesaid order of the High Court passed in the revision petition affirming the order of the Appellate Authority, a special leave petition was filed which on grant of leave was heard in presence of the learned counsel for the parties.

5. Having heard the learned counsel for the parties and considering the facts and circumstances of the present case and particularly considering the fact that the appellant had been using the premises in question for commercial purpose, we are of the view that the order of the Appellate Authority can be modified by directing the appellant to pay Rs.5, 000/- per month provisionally till the disposal of the appeal pending before the Appellate

Authority. Accordingly, we dispose of this appeal by directing the appellant to pay or deposit at the rate of Rs.5000/- as provisional rent/mesne profits every month till the disposal of the appeal now pending before the Appellate Authority. The Appellate Authority is directed To dispose of the appeal at an early date preferably within three months from the date of supply of a copy of this order.

6. The appeal is thus disposed of. There will be no order as to costs.