



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

153

CR-5025-2026

Date of decision: 28.07.2026

M/s Durga Dass Vimal Kumar

. . . . Petitioner

Vs.

Tirath Ram

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Kushagra Mahajan, Advocate, for the petitioner.

DEEPAK GUPTA, J. (ORAL)

The tenant has invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution of India assailing the order dated 07.04.2026 (Annexure P-5) passed by the learned Appellate Authority, Amritsar, whereby while staying the operation of the eviction order during pendency of the statutory appeal, the petitioner has been directed to pay mesne profits/use and occupation charges at the rate of ₹8,000/- per month from the date of the eviction order.

2. Learned counsel for the petitioner submits that once the appeal against the eviction order is pending, the relationship of landlord and tenant continues and the Appellate Authority was not justified in directing payment of mesne profits. It is further contended that the original contractual rent was only ₹375/- per month and there was no legal evidence to justify enhancement to ₹8,000/- per month. According to learned counsel, the Appellate Authority has assessed the amount merely on conjectures and surmises.

3. I have heard learned counsel for the petitioner and have gone through the paper-book.

4. The question as to whether an appellate Court, while staying an order of eviction, can direct the tenant to pay compensation higher than the contractual rent is no longer res integra. In *Atma Ram Properties (P) Ltd. v. Federal Motors (P) Ltd.*, (2005) 1 SCC 705, the Hon'ble Supreme Court held that once a decree or order of eviction has been passed, the tenant's right to continue in possession survives only because of the stay granted by the appellate Court. Such stay is an equitable relief and the appellate Court is competent to impose reasonable conditions so as to compensate the landlord for being deprived of possession during the pendency of the appeal. The compensation payable during such period is not contractual rent but charges for use and occupation of the premises.

5. The aforesaid principle was reiterated by the Hon'ble Supreme Court in *State of Maharashtra and another v. Super Max International Pvt. Ltd. and others*, (2009) 9 SCC 772, wherein it was observed that the Court should not be unduly protective of an evicted tenant and that while granting stay of an eviction order, it is competent to direct payment of compensation at a rate higher than the contractual rent so as to balance the equities between the parties. The object is to ensure that the landlord does not suffer prejudice merely because the tenant continues to enjoy possession by virtue of an interim order.

6. In *Martin and Harris Pvt. Ltd. v. Rajendra Mehta and others*, (2022) 8 SCC 527, the Hon'ble Supreme Court again emphasized that while granting protection against execution of an eviction order, the appellate Court possesses ample jurisdiction to impose reasonable conditions, including payment of enhanced occupation charges, so that the rights of both parties remain adequately balanced during the pendency of the proceedings.

7. In the present case, the Appellate Authority has granted stay of the eviction order subject to payment of use and occupation charges at the rate of ₹8,000/- per month. Therefore, the submission that the petitioner could have been directed to pay only the contractual rent of ₹375/- per month is contrary to the settled legal position and deserves rejection.

8. The next question pertains to the quantum fixed by the Appellate Authority. Undoubtedly, while assessing mesne profits or use and occupation charges, the Court is required to adopt a reasonable and rational approach on the basis of the material available on record. The determination is necessarily tentative and interlocutory in nature and does not amount to a final adjudication of market rent.

9. The impugned order reveals that the respondent-landlord relied upon a rent deed pertaining to another commercial premises situated in the same locality reflecting monthly rent of ₹15,000/-. The petitioner disputed the comparability of the said premises. Faced with such rival claims, the Appellate Authority neither accepted the landlord's claim of ₹20,000/- per month nor accepted the tenant's plea that no amount beyond the contractual rent was payable. Instead, it fixed the amount at ₹8,000/- per month after considering the commercial nature of the locality, the location of the demised premises and the material placed before it.

10. Although the observation made by the Appellate Authority that it could determine mesne profits on the basis of "judicial notice" of the prevailing market rate may not be happily worded, the ultimate conclusion cannot be said to suffer from any patent illegality. The determination is supported by the material produced by the landlord, namely a comparable rent deed, coupled with the undisputed fact that the premises is a commercial shop situated in a prime market area. The compensation fixed is substantially lower than the amount claimed by the landlord and cannot be said to be arbitrary or excessive.

11. It is equally well settled that the supervisory jurisdiction under Article 227 of the Constitution is confined to correcting jurisdictional errors, perversity or patent illegality. This Court does not sit as a Court of appeal over every interlocutory order nor can it substitute its own assessment merely because another view regarding the quantum may also be possible. Unless the discretion exercised by the subordinate Court is shown to be arbitrary or wholly unreasonable, interference is unwarranted.

12. In the facts of the present case, the Appellate Authority has exercised the jurisdiction vested in it in accordance with the law laid down by the Hon'ble Supreme Court. The amount fixed by it cannot be said to be so arbitrary or disproportionate as to warrant interference under Article 227 of the Constitution. No jurisdictional error, material irregularity or perversity has been demonstrated.

13. Consequently, finding no merit in the present revision petition, the same is dismissed.

14. It is, however, clarified that the observations made herein are only for the purpose of deciding the present revision petition and shall not be construed as an expression of opinion on the merits of the appeal pending before the Appellate Authority.

28.07.2026

Vivek

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes
Whether reportable	No