

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.7262 of 2018(O&M)
Date of Decision-21.12.2018

Shalimar Estates Pvt. Limited ... Petitioner
Versus

Reliance Retail Limited and another ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vikas Behl, Sr. Advocate with
Mr. Amandeep Singh, Advocate and
Mr. Nikhil Sabharwal, Advocate
for the petitioner.

Mr. Ashok Aggarwal, Sr. Advocate with
Mr. Rajinder Goel, Advocate
Mr. K.S. Nalwa, Advocate
Mr. Aashish Chopra, Advocate
Ms. Rupa Pathania, Advocate and
Mr. Prateek Sodhi, Advocate
for the caveators/respondents.

RAJ MOHAN SINGH, J.

[1]. The present revision petition has been preferred against the order dated 04.10.2018 passed by Additional District Judge-cum-Presiding Judge, Special Commercial Court at Gurugram vide which the executing Court has decided points No.1, 2 and 4 holding that the constructive possession of the demised premises was handed over to the petitioner on 14.11.2011/21.11.2011.

[2]. Petitioner claimed that the alleged handing over of the possession was merely symbolic in nature and the same was in complete violation of the Arbitration award dated 07.09.2011. The

possession in terms of the award has not been handed over to the petitioner till date and as such, the petitioner is entitled to receive rent till date in terms of the Arbitration award. The alleged handing over of the possession without removing fit-outs as per terms of the award is no possession in the eyes of law. Respondents have kept the claim qua fit-outs alive, rendering the property of no use to the petitioner, therefore, the petitioner claimed interest @ 18% per annum as per award till actual realisation of the amount.

[3]. Few facts are relevant to be noticed. Petitioner purchased a plot for a Mall in Panchkula in an auction conducted by Haryana Urban Development Authority (HUDA) in the month of May, 2004. In November, 2006, the respondents approached the petitioner for opening a store in the said Mall. An agreement was executed between the parties on 24.01.2007 for leasing out 19,200 sq. ft. of floor space on ground, first and second floor of the Mall. The rate of rent was fixed at Rs.160/- per sq. ft. i.e. Rs.30,72,000/- per month. In addition to the aforesaid, common area maintenance charges were also payable by the respondents. As per the petitioner, the possession of the demised premises was handed over to the respondents on 10.02.2007 and rent free period of three months i.e. from 11.02.2007 to 10.05.2007 was also given to the respondents for carrying out the fit-outs works in the premises. Respondents gave interest free/refundable security deposit of Rs.1,84,32,000/- to the

petitioner. The rent was to start from the date of giving a copy of completion certificate by the petitioner to the respondents after obtaining the same from HUDA. Respondents also requested the petitioner for leasing out an additional area of 1132 sq. ft. on ground, first and second floor. In view of above, an addendum agreement was also executed between the parties on 15.05.2007 and accordingly, possession of additional area was also handed over to the respondents on 15.05.2007 itself. The rate of rent for the additional area was fixed at Rs.320/- sq. ft. i.e. Rs.3,62,240/- per month. Respondents deposited an amount of Rs.21,73,440/- as interest free security deposit to the petitioner. A dispute arose between the parties. Petitioner alleged that the respondents have delayed in carrying out fit-outs work and necessary changes could not be incorporated by them within the time frame. Therefore, petitioner claimed recovery of rent along with service tax, property tax, recovery of common area maintenance charges, minimum electricity charges for load reserved for Reliance Retail Ltd. and cost of arbitration etc.

[4]. Respondents also set up a counter claim by refuting the allegations of the petitioner on the ground that the agreement dated 24.01.2007 is not a valid lease agreement. Respondents besides taking plea of the agreement being not registered document, also claimed for refund of security deposit of Rs.1,84,32,000/- and Rs.21,73,440/- along with interest @ 18% per annum. Respondents contested that the construction work of

the said Mall was delayed by the petitioner as the same was stopped by Haryana Pollution Control Board on 22.06.2007. However, the order was quashed by the High Court on 02.08.2007 and the work remained stopped from 22.06.2007 to 02.08.2007. Thereafter, the work was delayed on account of dis-connection of electricity and water supply of the Mall. High Court vide order dated 10.12.2007 observed that the issue raised by the petitioner in challenging the said order of dis-connection of electricity and water supply will take some time to be examined and in the meanwhile, permission was granted to have the Mall inaugurated and made operational. Respondents claimed that delay was caused by the petitioner in completion of the Mall. Respondents also claimed that they have spent Rs.5,16,45,201/- on the fit-outs work and the same should be refunded to them. They have also pleaded that on account of assurance given by the petitioner regarding opening of the store, respondents had purchased the merchandise which had to be sold at a lower price because of delay in opening the Mall. The difference to the tune of Rs.1 crore was claimed as compensation. Besides the aforesaid, an amount of Rs.17,17,000/- was also claimed towards payment of salary to the staff who remained idle due to non-opening of the Mall.

[5]. Both the parties went to Arbitral Tribunal for resolution of their dispute.

[6]. Arbitral Tribunal after due consideration found that the respondents had entered into an agreement with the petitioner for taking up large area on lease in the Mall and had also acquired possession of the same for fit-outs work and the respondents continued to be in possession of the demised premises. However, no rent was paid to the petitioner. Tribunal observed that the payment of rent cannot be hedged in a mesh of technical defense and also observed that it would be equitable that compensation be paid to the petitioner for the period the building remained in possession of the respondents from the date of receipt of completion certificate from HUDA i.e. 21.06.2008.

[7]. For recovery of rent along with service tax, an amount of Rs.14,63,39,649/- was allowed from 21.06.2008 to 31.08.2011. For recovery of common area maintenance charges along with service tax, an amount of Rs.1,26,44,216/- was allowed for the total covered area in possession of the respondents from 21.06.2008 to 31.08.2011. In both the aforesaid claims, the petitioner was held entitled to compensation for the period starting from 01.09.2011 till the time respondents retained possession of the demised premises at the rates allowed by the Tribunal under the aforesaid heads.

[8]. An adjustment of Rs.1,84,32,000/- and Rs.21,73,440 i.e. the amount paid by the respondents to the petitioner as interest free deposit was to be adjusted towards the outstanding

amount payable by the respondents. On the balance amount till the date of award, interest @ 15% per annum was to be paid by the respondents to the petitioner. After the date of award, any payable amount to the petitioner was to attract an interest @ 18% per annum till the entire amount is paid by the respondents. An amount of Rs.42,35,000/- was awarded as costs of arbitration proceedings and costs of litigation. Petitioner was held entitled to a total amount of Rs.16,32,18,865/-. In addition, petitioner was also held entitled to interest @ 15% per annum on the outstanding amount till the date of award and thereafter, @ 18% per annum till the entire payment is made. No interest was payable by the respondents on the aforesaid amount of Rs.42,35,000/- which was assessed towards costs of arbitration proceedings and costs of litigation.

[9]. As regards, counter claim set up by the respondents, no determination was done in respect of any amount, however, respondents were held entitled to remove their goods in respect of fit-outs from the demised premises after making the full payment to the petitioner. As regards, construction of stair cases as part of the fit-outs, it was observed that the same will not be dismantled, but the respondents will be entitled to an amount of Rs.1 lac as provided in the agreement.

[10]. In this manner, the Arbitral Tribunal after consideration of claims and counter claims of the parties, passed an award of

Rs.16,32,18,865/-. Petitioner was held entitled to an interest @ 15% per annum on the outstanding amount till the date of award. Petitioner was also held entitled to interest @ 18% per annum till the entire payment is made by the respondents. The concluding part of the award dated 07.09.2011 passed by the Arbitral Tribunal is reproduced hereasunder:-

“In view of the decision on each of the claims of the claimant company and the counter claims by the respondents company, an award for Rs.16,32,18,865/- is made till the date of the award in favour of the claimants. They will also be entitled to interest @ 15% p.a. on the outstanding amount till the date of the award in terms of the detailed exposition in the foregoing paragraphs. They will also be entitled to compensation as determined in each of the claims for the period after the date of the award and till the demised premises remain under the possession of the respondent along with the payment of interest @ 18% p.a. as indicated above till the time the balance payment is made to the claimants.”

[11]. Against the aforesaid award dated 07.09.2011 passed by the Arbitral Tribunal, respondents filed objections under Section 34 of the Arbitration and Conciliation Act, 1996 dated 30.11.2011 on number of grounds. The objections were dismissed by the Additional District Judge, Panchkula vide judgment dated 29.09.2012.

[12]. The said judgment was assailed by the respondents in the High Court in FAO No.6550 of 2012 which was dismissed

vide order dated 20.12.2012. Special Leave to Appeal (Civil) No.1402/2013 was filed by the respondents in the Hon'ble Supreme Court. On 01.02.2013, following order was passed by the Hon'ble Supreme Court:-

"Taken on Board.

Issue notice returnable within two weeks. Dasti in addition is permitted.

Meanwhile, the operation of the impugned judgment passed by the High Court shall remain stayed.

We further direct that the award shall not be enforced provided the petitioner deposits with the Registrar of this Court a sum of Rs.16 crores, as awarded by the Arbitrator, within a period of seven days from today."

[13]. The Hon'ble Apex Court vide order dated 02.05.2014, modified the aforesaid order dated 01.02.2013 and directed the registry to invest the money deposited by the respondents in a short terms fixed deposit receipt with a nationalized bank. The deposit be renewed periodically during pendency of the petition.

[14]. In view of directions issued by the Hon'ble Apex Court on 01.02.2013, an amount to the tune of Rs.19,32,18,747/- (inclusive of interest) was deposited by the respondents and the same was invested in a fixed deposit with a maturity date as 17.05.2017. An application for withdrawal of the aforesaid amount by the petitioner was rejected by the Hon'ble Apex Court on 08.08.2013. Vide order dated 07.04.2017 passed by the Hon'ble

Apex Court, SLP was dismissed. However, the registry was directed that on an application filed by the petitioner, the maturity amount (inclusive of interest) be released to the petitioner. Accordingly, the deposit along with interest was released in favour of the petitioner.

[15]. Thereafter, execution petition was filed by the petitioner. Reply was filed by the respondents to the execution petition on the premise that the petitioner is trying to project unnecessary inferences of the award which are not only illegal, but are also contrary to logic and common-sense. Respondents submitted that the decree holder has refused to accept the keys of the premises sent by them on 14.11.2011 by mis-interpreting and mis-construing the award. Respondents pleaded that they were held entitled to take their goods back after full payment of the awarded amount. Arbitral Tribunal nowhere prevented the respondents from surrendering the possession of the premises which had been done on 14.11.2011.

[16]. Petitioner in its letter dated 18.11.2011 which was written in response to letter dated 14.11.2011 assigned a deeper meaning to the controversy by stating that till the time fit-outs are lying in the premises, petitioner cannot use the same and delivery of keys or withdrawal of security guards from the premises will not serve any purpose. It was also asserted by the petitioner that the fit-outs are useless for the petitioner and have no value,

rather the petitioner has to spend sufficient amount to dismantle the same in order to clear the premises. Petitioner asserted that till the time vacant possession of the premises is handed over to the petitioner, keys cannot be accepted. Respondents in order to secure fit-outs lying in the premises were constrained to file a petition before the Court under Section 9 of the Act. In those proceedings, respondents had placed the keys before the Court and the Court vide order dated 21.12.2011 had taken note of the fact that the respondents had sought to place in custody of the Court the keys of the surrendered premises, but the decree holder/petitioner objected to the same. Order dated 21.12.2011 reads as under:-

“Present: Shri Aashish Chopra, counsel for the applicant/petitioner.

Shri Sameer Sethi, counsel for respondent.

Reply to application under Section 9 of the Arbitration and Conciliation Act filed by the respondent and a date is requested by the learned counsel for arguments on the maintainability of the present petition filed by the applicant. Request not opposed. Also learned counsel for the petitioner has desired to place in the custody of the Court a bundle containing keys of the premises taken on lease and said request has been opposed by the learned counsel for respondent.

Hence, now the case is adjourned to 04.01.2012 for arguments on the maintainability of petition under Section 9 of Arbitration and Conciliation Act.

*Sd/-
Kanchan Mahi
December 21, 2011. ADJ, PKL”*

[17]. Though vide order dated 10.07.2017, the petition filed under Section 9 of the Act was dismissed being not maintainable, but the factum of handing over of the keys was noticed in the aforesaid judicial proceedings. The keys were offered on 14.11.2011 by way of writing a letter to the petitioner without prejudice to the right of the respondents to challenge the award in accordance with law at that relevant stage. Thereafter, petition under Section 34 of the Act was filed on 30.11.2011. The filing of application dated 14.11.2011 for handing over of keys was after 2 months and 7 days of passing of the award dated 07.09.2011. In the execution filed by the petitioner, the executing Court framed following 4 points for determination of the controversy:-

“1) Whether the act and conduct of the judgment debtor in sending by registered post the keys and refusal by the decree holder to receive the same and returning it back, filing of application under Section 9 of the Arbitration Act by the judgment debtor for deposit of the keys and its return as well as the stand of the decree holder in that application refusing deposit of the keys which led to passing of orders dated 21.12.2011 tantamounts to handing over of

constructive possession of the leased premises to the decree holder by the judgment debtor?

2) Whether the act of decree holder in frustrating the efforts of the judgment debtor to hand over possession of the premises and its effect as well as the Executing Court to adjudge the actual date of handing over of possession needs to be gone into?

3) Whether the withdrawal of the amount of Rs.19,32,18,747/- by the decree holder tantamounts to satisfaction of the Award at the behest of the decree holder and their right to further agitate recovery of further amount in pursuance of the award is a legitimate one or not?

4) Whether the judgment debtor has removed the fitments from the leased premises or not and if so, the date and time when the same were removed?”

[18]. Vide the impugned order dated 04.10.2018 passed by Additional District Judge-cum-Presiding Judge, Special Commercial Court at Gurugram, points No.1, 2 and 4 were decided in favour of the respondents holding that the constructive possession of the demised premises was handed over to the petitioner on 14.11.2011/21.11.2011.

[19]. Apparently, an amount of Rs.16,32,18,865/- (quantified amount by the Arbitral Tribunal) was deposited by the respondents in the Hon'ble Apex Court on 05.02.2013. The said amount was deposited under the orders of the Hon'ble Apex Court dated 01.02.2013. According to the respondents, the liability of the respondents to pay interest on the aforesaid

amount after its deposit on 05.02.2013 under the orders of the Hon'ble Apex Court came to an end. The dispute remained for consideration "whether possession of the demised premises was handed over by the respondents to the petitioner on 14.11.2011 or not? Point No.1 was decided by the executing Court against the petitioner. Point No.2 went along with point No.1. Under point No.3, it was decided that the withdrawal of the amount of Rs.19,32,18,747/- by the petitioner amounted to satisfaction of the award and under point No.4, it was held that the keys were duly offered to the petitioner and the petitioner was not supposed to refuse to take possession of the premises, when the same was offered to the petitioner without removal of the fixtures. The refusal by the petitioner to take possession was inconsequential as it amounted to actual handing over of possession. The deposit of keys in the Court in a suit for refund of security amount was sufficient to highlight the conduct of the petitioner in deliberately delaying the delivery of possession. The lease was terminated and possession was offered. Petitioner was not supposed to refuse to take possession and the lease would not have continued thereafter. The executing Court also observed that the petitioner cannot misuse the Arbitral award to arm twist the respondents. It was inferred that petitioner created a complete block for the respondents. Petitioner had not permitted the respondents to remove fixtures and had refused to take keys. So, point No.4 was also answered accordingly.

[20]. Learned Senior Counsel for the petitioner by referring to **CR No.2237 of 2010** titled **Union of India Vs. M/s Harbans Singh Tuli & Sons** decided on 17.12.2013, **P.S.L Ramanathan Chettiar and others Vs. O.R.M.P.R.M. Ramanathan Chettiar, 1968 AIR (SC) 1047, Haryana Engineering and Foundry Works and another Vs. Union of India and others, 1998(76) DLT 947, Engineering Projects (India) Ltd. Vs. Arvind Construction Company Ltd., 2009(24) RCR (Civil) 276** and **Tamil Nadu Handloom Weavers Cooperative Society Vs. Harbans Lal Gupta, 2008(21) RCR (Civil) 839** contended that the petitioner is entitled to interest inspite of release of amount deposited in the Court, because respondents were instrumental in opposing the applications for withdrawal of amount filed by the petitioner before passing of order dated 07.04.2017. The petitioner being the decree holder-cum-beneficiary of award cannot be precluded from enjoying the fruits of interest on awarded amount from 05.02.2013 till its deposit in FDR.

[21]. On the other hand, learned Senior Counsel for the respondents referred to **H.P. Housing & Urban Development Authority and another Vs. Ranjit Singh Rana, 2012(2) RCR (Civil) 488, Raja Laxman Singh Vs. State of Rajasthan, 1988 AIR (Raj) 44** and **Union of India and another Vs. M.P. Trading and Investment Rac. Corporation Limited, (2016) 16 Supreme Court Cases 699** and contended that the view expressed in **CR No.2237 of 2010** titled **Union of India Vs. M/s Harbans**

Singh Tuli & Sons case (supra) stood differentiated in **H.P. Housing & Urban Development Authority and another Vs. Ranjit Singh Rana's case (supra)** and the same was followed by the Hon'ble Apex Court in **Union of India and another Vs. M.P. Trading and Investment Rac. Corporation Limited's case (supra)**. The deposit of the entire amount in the Hon'ble Apex Court on 05.02.2013 amounted to payment by the respondents and thereafter, liability of the respondents came to an end from that day onwards. The Court interpreted Section 31(7) (a) and (b) of the Act and held that claimant was entitled to interest for the post-award period if the principal amount was not paid, but he was not entitled to any interest on the awarded amount under Section 37(1)(b) of the Act. The word payment may have different meaning in different context, but in the context of Section 37(1)(b) of the Act, it means extinguishment of the liability arising under the award. It signifies satisfaction of the award. The deposit of the awarded amount into the Court is nothing but a payment to the credit of the decree holder.

[22]. I have considered the arguments raised by learned counsel for the parties.

[23]. It is a settled principle of law that the person who has not come to the Court with clean hands does not deserve any equitable relief. Petitioner has concealed the aforesaid

information in respect of creating lien over the fit-outs in the petition and thus created an illusion in respect of its claim.

[24]. The consideration of precedents cited by the learned Senior Counsel for the parties would not lend anywhere near to the *lis* in question. In the present case, the amount was deposited in a short term fixed deposit receipt with a nationalized bank carrying interest thereon under the orders of the Hon'ble Apex Court. On maturity, the said amount was paid to the petitioner. Since the payment was made along with interest, therefore, the issue is to be appreciated whether petitioner is entitled to the amount deposited in the Court for the intervening period when the amount was ultimately ordered to be deposited by the Hon'ble Supreme Court. According to the respondents, the delay is not attributable to them. The ratio of **Union of India Vs. M/s Harbans Singh Tuli & Sons case (supra)** and other precedents cited by the petitioner are different than the present controversy which squarely falls for consideration on the issue of handing over of keys by the respondents to the petitioner on 14.11.2011. Quantified amount of Rs.16,32,18,865/- was deposited by the respondents on 05.02.2013 in the Hon'ble Apex Court. After deposit of the said amount and after the order passed by the Hon'ble Apex Court dated 02.05.2014, the interest accrued on the said amount was duly paid to the petitioner. For the delay of 15 months from 01.02.2013 to 02.05.2014, the conduct of the parties is to be appreciated, but the executing Court has not

conclusively adverted to it. Whether the petitioner would suffer for the loss of interest, particularly in view of opposition made by the respondents against the withdrawal of such amount would be left to be re-considered by the executing Court with reference to the material on record.

[25]. In view of above, the amount deposited in the Hon'ble Apex Court was an amount deposited to the credit of the petitioner. Once a notice was issued to the petitioner, then the petitioner cannot refuse to take possession by putting conditions. It shall be deemed for all purposes that as soon as the property has been vacated the possession has been delivered, though the landlord may not accept the possession. Putting certain conditions for accepting the possession were deprecated. When the tenant wants to deliver the possession and the landlord does not accept the possession, then it will have to be presumed that the possession has been delivered as soon as property has been vacated. The vacation of the property together with a notice to the landlord to take the delivery of the possession is submission for the purpose of restoration of the possession and any impediment put up by the landlord in the matter of redelivery of the possession and not accepting the possession on the ground that some terms and conditions will have to be fulfilled, will amount to the delivery of possession and it shall be deemed for all purposes that as soon as the property has been vacated the possession has been delivered though the landlord may not accept the

possession. **Raja Laxman Singh Vs. State of Rajasthan's case (supra)** was followed by the Delhi High Court in **Onida Finance Limited Vs. Mrs. Malini Khanna, 2002(1) RCR (Rent) 546,** wherein it was held that putting conditions for taking possession would not come in discharge of obligations by the tenant as contemplated under Section 111(e) of the Transfer of Property Act. If the landlord avoided to take possession, he cannot be permitted to take advantage of his own wrong. The law with respect to obligations of the landlord and tenant upon determination of tenancy is well settled. Upon determination of tenancy and offer of possession by the tenant, the landlord cannot refuse to take over the possession. If the landlord refuses to take possession, the possession shall be deemed to have been delivered to the landlord and the tenant shall not be liable to pay the rent.

[26]. If the aforesaid legal position read in conjunction with the stand taken by the petitioner in reply to the petition under Section 9 of the Act, everything would be crystal clear. Petitioner has concealed to highlight its stand in the reply to the petition under Section 9 of the Act, wherein it was stated that the petitioner had a lien over all stocks, goods, merchandise, equipments, furnitures, fixtures and other moveable properties. The lien was projected in the contest to the application under Section 9 of the Act, wherein it was asserted by the petitioner that in case the respondents are allowed to withdraw the goods from

the lien exercised over them by the petitioner without making payment of the dues, the object of filing the petition would be proved to be *mala fide*. It was asserted by the petitioner that fit-outs lying in the demised premises are not the subject matter of arbitration agreement and the petitioner created lien over the fit-outs lying in the demised premises.

[27]. The Concept of Finality of Judgment has been explained by the Hon'ble Apex Court in **Indian Council for Enviro-Legal Action vs. Union of India and others., 2011(3) R.C.R. (Civil) 779**. The maxim '*interest Republicae ut sit finis litium*' is to the effect that the litigation must end after a long hierarchy of remedies at some stage. It is necessary to put a quietus. It is rare that in an adversarial system, despite the judges of the highest court doing their best, one or more parties may remain unsatisfied with the most correct decision. Opening door for a further appeal would be opening a flood gate which will cause more wrongs in the society at large at the cost of rights. The conclusion is that the controversy between the parties must come to an end at some stage and the judgment of the higher court must be permitted to acquire finality. It would be improper to allow the parties to file application after application in the endless process. Finality of judgment is absolutely imperative and great sanctity is attached to the finality of the judgment.

[28]. Allowing the parties to reopen the concluded judgments on the basis of some untested material would be an

abuse of process of law and the same would have far reaching adverse consequences on the administration of justice. A settled thing should not be allowed to be unsettled. The judgment passed by the Hon'ble Apex Court is not amenable to the judicial review that too at the stage of execution on the basis of some material which was never the subject matter of substantive litigation upto the Hon'ble Apex Court. Even correctness of the decision on merits after it has become final upto the Hon'ble Apex Court cannot be questioned by invoking Article 32 of the Constitution of India. The principle of finality of litigation is based on high principle of public policy. It is equally important to prevent unscrupulous litigant from taking undue advantage through the process of the Court. It is an onerous duty and obligation of the Court to ensure undue enrichment is not drawn by the losing party by exercising the process of the Court, even after finality of litigation upto the Hon'ble Apex Court. While curbing the aforesaid tendency, the Court would be fully justified in imposing punitive costs where legal process has been abused. Doctrine of *stare decisis* is very valuable principle of precedent which cannot be departed in the ordinary circumstances. The view expressed by the Hon'ble Court in **Manganese Ore (India) Ltd. vs. The Regional Assistant Commissioner of Sales Tax, Jabalpur (1976) 4 SCC 124**, **Green View Tea & Industries vs. Collector, Golaghat and another, 2002(2) R.C.R. (Civil) 362** and

M. Nagabhushana vs. State of Karnataka & Others, 2012(1)

R.C.R. (Civil) 807 can be relied in the aforesaid context.

[29]. The findings recorded by the executing Court in pith and substance do not require any re-consideration, except the observation as made in preceding para No.24. One more factor can be noticed that the Arbitral award was passed on 07.09.2011 and the keys were offered by way of letter dated 14.11.2011 i.e. after a period of 2 months and 7 days of passing of the award. As per terms and conditions of the award, for the aforesaid period of 2 months and 7 days, petitioner would also be entitled to interest @ 18% per annum in view of award.

[30]. In view of above, the findings under point No.1 are reiterated except the re-consideration for the period of 15 months for interest by the executing Court and modification in respect of interest @ 18 % per annum for a period of 2 months and 7 days on the awarded amount for the delay in moving the application for handing over of the keys on 14.11.2011. Point No.2 will go along with point No.1. In view of legal position as mentioned above, the deposit of awarded amount in the Hon'ble Apex Court and payment of the same to the decree holder would suffice to provide satisfaction of the award qua further rent and interest, except for the observation as mentioned above. The handing over of the keys on 14.11.2011 and creating lien over fit-outs by the petitioner would compel the Court to endorse the findings recorded by the executing Court under point No.4 as well.

[31]. For the reasons recorded hereinabove, this revision petition is disposed of with the modification under point No.1 as pointed above. The Executing Court would re-consider the issue of interest for 15 months from 01.02.2013 to 02.05.2014 and carry out necessary calculations and would compute the due amount as per award. Both the parties would submit their respective calculations to the satisfaction of the executing Court. Terms of the Award shall be strictly adhered to while computing the due amount to the petitioner.

(RAJ MOHAN SINGH)
JUDGE

21.12.2018
Prince

Whether Reasoned/Speaking	Yes/No
Whether Reportable	Yes/No