

**IN THE HIGH CO URT OF PUNJAB AND HARYANA AT CHANDIGARH****135****CR-2504-2025 (O&M)****Date of Decision : 28.04.2025**

Diwakar Malhotra @ Lucky (deceased)
through LRs & Others

....Petitioners

VERSUS

Lovepreet Walia and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ranjan Lakhanpal, Advocate for the petitioners.

ALKA SARIN, J. (Oral)

1. Present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 04.04.2025 passed by the Appellate Authority directing the tenant-petitioners to pay mesne profits @ ₹20,000/- per month.

2. The brief facts relevant to the present *lis* are that the landlord-respondents herein had filed a petition for ejectment of the tenant-petitioners and vide the impugned order dated 24.04.2024 the Rent Controller had directed the tenant-petitioners to vacate the demised premises. An appeal was preferred by the tenant-petitioners alongwith an application for stay of the impugned eviction order dated 24.04.2024. Another application was filed by the landlord-respondents for assessment of the mesne profits @ ₹35,000 per month. The property in question is a SCF located in New Motor Market, Chandigarh. It was stated by the landlord-respondents that similar SCF No.320 in the said market was rented out in the year 2013 @ ₹25,000/- per

month with an annual increase of 8% and another SCF No.395 was rented out @ ₹22,000/- per month in the year 2013 with an annual increase of 7%. The only argument raised by the tenant-petitioners at the time of hearing of the application for mesne profits was that they are tenants in a two-room set and a bathroom on the first floor of the premises in question and that registered lease deeds placed on the record by the landlord-respondents do not pertain to similar type of premises. No lease deeds were placed on the record by the tenant-petitioners. The Appellate Authority vide the impugned order dated 04.04.2025 assessed the mesne profits @ ₹20,000/- per month from the date of eviction and further directed the tenant-petitioners herein to pay future mesne profits by the 10th of every calendar month and accordingly order of eviction dated 24.04.2024 was stayed subject to payment of the arrears of mesne profits within a period of one month and future mesne profits on or before the 10th of every calendar month. Aggrieved by the same, the present revision petition has been filed.

3. Learned counsel for the tenant-petitioners would contend that the premises in dispute is a two-bedroom premises and was let out @ ₹1,300/- per month and since then the rent has not been increased and now the mesne profits have been assessed @ ₹20,000/-. On a query by the Court as to whether any lease deed was placed on the record to show the current market rent, learned counsel for the tenant-petitioners has stated that no lease deed was produced by the tenant-petitioners herein. The Hon'ble Supreme Court in the case of **M/s Martin & Harris Private Limited &**

Anr. vs. Rajendra Mehta & Ors. [2022 (2) RCR (Rent) 109] has held as under :

“10. Now, reverting on the issue of determination of the amount of mesne profits @ Rs.2,50,000/- per month is concerned, the guidance may be taken from the judgment of Marshall Sons & Co. (I) Ltd. v. Sahi Oretrans (P) Ltd. and Another - (1999) 2 SCC 325, in which this Court held that once a decree for possession has been passed and the execution is delayed depriving the decree holder to reap the fruits, it is necessary for the Appellate Court to pass appropriate orders fixing reasonable mesne profits which may be equivalent to the market rent required to be paid by a person who is holding over the property. In the case of Atma Ram Properties (P) Ltd. v. Federal Motors (P) Ltd. - (2005) 1 SCC 705, this Court held that Appellate Court does have jurisdiction to put reasonable terms and conditions as would in its opinion reasonable to compensate the decree holder for loss occasioned by delay in execution of the decree while granting the stay. The Court relying upon the provisions of the Delhi Rent Control Act, observed that on passing the decree for eviction by a competent Court, the tenant is liable to pay mesne profit or compensation for use and occupation of the premises

at the same rate at which the landlord would have able to let out the premises in present and earn the profit if the tenant would have vacated the premises. The Court has explained that because of pendency of the appeal, which may be in continuation of suit, the doctrine of merger does not have effect of postponing the date of termination of tenancy merely because the decree of eviction stands merged in the decree passed by the superior forum at a later date.

11. Thus, after passing the decree of eviction the tenancy terminates and from the said date the landlord is entitled for mesne profits or compensation depriving him from the use of the premises. The view taken in the case of Atma Ram (supra) has been reaffirmed in the case of State of Maharashtra v. Super Max International Pvt. Ltd. and others - (2009) 9 SCC 772 by three Judges Bench of this Court. Therefore, looking to the fact that the decree of eviction passed by Trial Court on 03.03.2016 has been confirmed in appeal; against which second appeal is pending, however, after stay on being asked the direction to pay mesne profits or compensation issued by the High Court is in consonance to the law laid down by this Court, which is just equitable and reasonable.”

4. The assessment has been based on two registered lease deeds, which were produced by the landlord-respondents. No lease deed was admittedly produced on the record by the tenant-petitioners. On the basis of the lease deeds, the Appellate Authority has assessed the mesne profits @ ₹20,000/- per month. In view thereof, no fault can be found with the impugned order dated 04.04.2025 passed by the Appellate Authority.

5. In view of the above, present revision petition, which is being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

28.04.2025
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO