



**In the High Court of Punjab and Haryana, at Chandigarh**

**Execution Second Appeal No. 34 of 2022 (O&M)**

**Date of Decision: 06.05.2025**

Gita alias Geeta

... Appellant(s)

Versus

Hemlata and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Anil Kshetarpal.**

Present: Mr. Abhishek Goyal, Advocate  
for the appellant(s).

Mr. Raman Kumar, Advocate  
for Mr. Yashdev Kaushik, Advocate  
for respondent No.1.

Mr. Deepam Raghav, Advocate  
for Mr. Sumit S. Bairagi, Advocate  
for respondent No.2.

**Anil Kshetarpal, J.**

**CM-6839-C-2022**

1. For the reasons stated in the application, the same is allowed and delay of six days in refiling the appeal is condoned.

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2. The appellant assails the correctness of the concurrent orders passed by both the Courts below while dismissing her objection petition.

3. In the State of Haryana, the relationship of the landlord and tenant is regulated by the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter referred to as “the 1973 Act”). The Rent Controller is entitled to order eviction of the tenant on a petition filed by the landlord,

however, the Rent Controller has no jurisdiction to either order recovery of rent while passing the final order of eviction or the amount of *mesne profits*. At the most, the Rent Controller can order eviction of the tenant. In this case, the appellant's husband, namely Guru Prasad Singh was tenant in possession of rented premises. The landlady, namely Hemlata filed a petition under Section 13 of the 1973 Act seeking eviction of Guru Prasad Singh which was allowed, however, the Rent Controller passed the following order:-

*“6. The petition is hereby allowed and respondent is hereby directed to vacate the demised premises within one month from the date of the order. Again, the respondent is also directed to make payment of due rent @ 5,500/- per month since February 2017 till today and further mesne profits @ Rs.5,500/- per month since today till date of delivery of possession to the petitioner. It is hereby made clear that if the respondent failed to comply with the order, the petitioner shall be at liberty to seek assistance of the court for possession of the demise premises as well as for recovery of due amount from the respondent. No order as to costs. File be consigned to record room after due compliance.”*

4. In the execution petition, the possession was delivered to the landlady, however, the Rent Controller auctioned the property of Guru Prasad Singh's wife in order to recover the arrears of rent and the amount of future *mesne profits*. The appellant filed the objection petition which was dismissed.

5. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book.

6. The learned counsel representing the appellant submits that he does not challenge the validity of the order of eviction, however, the remaining part of the order dated 08.02.2018 entitling the landlady to recover the arrears of rent since February 2017 till the date of judgment and future *mesne profits* is without jurisdiction. He further submits that the possession of the tenanted premises has already been delivered. It is further contended that the appellant became the owner of the property by virtue of the transfer deed/sale deed executed by Guru Prasad Singh on 26.05.2015 whereas the eviction petition was filed on 18.04.2017.

8. Per contra, the learned counsel representing the respondents submit that the appellant filed objection petition after a period of 13 months from the date of auction. Hence, both the Courts below have correctly dismissed the same.

9. It is evident that the Rent Controller's order passed on 08.02.2018 to the extent of directing Guru Prasad Singh to pay rent @ ₹5,500/- per month since February 2017 till the date of judgment and future *mesne profit* @ ₹5,500/- per month till the date of delivery of possession is without jurisdiction. Consequently, the auction of the property is also *void ab initio*. The landlady, if so advised, may proceed for recovery of the amount, in accordance with law. It has been disclosed by the parties that the possession of the property transferred in favour of the appellant was taken over by the auction purchaser after the court auction was confirmed. Hence, in exercise of jurisdiction under Section 144 of the Code of Civil Procedure,

1908, the auction purchaser is directed to restore the possession to the appellant. The auction purchaser shall have the liberty to seek refund of the auction amount, in accordance with law.

10. With the observations made above, the present appeal is disposed of. The miscellaneous application(s) pending, if any, shall also stand disposed of.

**(Anil Kshetarpal)**  
**Judge**

**May 06, 2025**  
**“DK”**

Whether speaking/reasoned :Yes/No  
Whether reportable : Yes/No