



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

117

CR-5567-2025

Date of Decision: 02.09.2025

Rajesh Bhandari

....Petitioner

VERSUS

Usha Kohli and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Abhinav Gupta, Advocate, and
Mr. Jatinder Kumar Kansal, Advocate, for the petitioner.

AMARINDER SINGH GREWAL, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India, for setting aside the impugned order dated 30.07.2025, whereby, objections filed by the petitioner against the execution application preferred by the respondents were dismissed and application dated 24.03.2025 for recalling/correction of order dated 19.12.2024 whereby warrants of attachment qua the properties of petitioner were issued was dismissed.

2. The brief facts of the case are that respondents-Usha Kohli and another filed a rent petition titled as "*Usha Kohli and another Vs. Rajesh Bhandari*" under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, against the petitioner-tenant Rajesh Bhandari, on the ground of personal necessity and non-payment of rent. Notice was issued to the petitioner-tenant, who filed his reply thereto. On the pleadings of the parties, as many as six issues were framed, including the relief part, and thereafter,



parties led their respective evidence and ultimately, the eviction order was passed by the learned Rent Controller, Chandigarh, vide order dated 07.08.2013, on the ground of personal necessity as well as non-payment of rent. Thereafter, the petitioner-Rajesh Bhandari preferred an appeal against the said order dated 07.08.2013 passed by the learned Rent Controller, Chandigarh, before the learned Appellate Authority, Chandigarh, and the said appeal was dismissed on 22.08.2014. During the pendency of the appeal, the learned Appellate Court had assessed the amount of Rs.27,000/- p.m. as mesne profits to be paid by tenant-petitioner. Thus, by passing the order by learned Appellate Authority, the said order had merged with the order of the learned Rent Controller, Chandigarh, dated 07.08.2013. Further, record reveals that then the petitioner/JD approached the Hon'ble High Court and filed CR-6437 of 2014 wherein CM-11007-CII-2018 was filed and a Co-ordinate Bench of this Court then enhanced the mesne profits @ Rs.40,000/- p.m., with effect from the date of filing of the said application i.e. 01.05.2018 vide order dated 28.07.2023. Further in CR-6437-2014, the present petitioner had submitted that he is not in a position to pay the mesne profits and had submitted that he is ready to handover the physical possession of the demised premises to the respondent-landlord by handing over the keys and then he withdrew the revision petition vide order dated 22.02.2024. At the same time, learned counsel for the respondent-landlord had raised an objection to the CM moved by the learned counsel for the petitioner on the ground that arrears of mesne profits are due. The Co-ordinate Bench had held in this order, the respondent is free to take action in accordance with law as there is no ground to keep the revision petition



pending when the petitioner is interested in withdrawing the same. Further, record reveals that thereafter, the petitioner-JD had also preferred an SLP (Civil) No.49736 of 2023 against the order but the same was also dismissed on 29.01.2024.

3. Learned counsel for the petitioner has simply submitted that learned Rent Controller, Chandigarh, vide its order dated 07.08.2013, had simply allowed the petition of the respondent-landlord on the ground of personal necessity and non-payment of rent. In the present order, there was no direction to the respondent-tenant to pay any arrears of rent or mesne profits to the landlord/decreed holder. Thus, the Executing Court cannot go behind the decree passed by the learned Rent Controller/trial Court. At the same time, it is submitted that the Rent Act only provides the eviction of tenant and for claim of mesne profits, a separate suit is required to be filed. It is further submitted that the petitioner has already handed over the possession of the disputed premises to the decree-holder/respondent. At the same time, it is submitted that petitioner is not in a position to pay the mesne profits to the decree holder/respondent. In the end, it is submitted that the warrants of attachment were issued by the learned Rent Controller vide order dated 19.12.2024 without taking any objection of the petitioner/JD and as such, it was never discussed by the Civil Judge (Jr. Divn.), Chandigarh, in his order dated 30.07.2025. Thus, it is submitted that the impugned order dated 30.07.2025 be set aside.

4. I have heard learned counsel for the petitioner at length and perused the paper book.



5. The submissions as raised by learned counsel for the petitioner have already been discussed by the learned Court below while disposing the application of the petitioner/JD dated 21.02.2025 for recalling/correction of the order dated 19.12.2024 whereby warrants of attachment qua the property of the respondent/JD were issued. The question which arises before this Court is that whether the learned Lower Court would have issued the warrants of attachment qua the property of petitioner/JD or not in the additional proceedings. This Court feels that, even if the petitioner/JD had handed over the possession of the demised premises to the respondent/decree holder but still the decree-holder/respondent is entitled for recovery of the mesne profits as awarded by the Co-ordinate Bench vide order dated 28.07.2023 passed in CM-11007-CII-2018 in CR-6437-2024. Further as mentioned above in the order dated 22.02.2024 passed in CR-6437-2024, counsel for the petitioner had himself submitted that petitioner is not in a position to pay the mesne profits. Such a contention was taken in the above-mentioned revision petition, naturally then decree-holder/respondent had to recover the arrears of mesne profits, even if the petitioner/JD has surrendered the possession of premises/property to the respondent/decree holder.

6. Since the order dated 28.07.2023 passed by the Co-ordinate Bench vide which the mesne profits were enhanced @ Rs.40,000/- per month has been merged with the order of learned Appellate Authority dated 22.08.2014 and order dated 07.08.2013 passed by the learned Rent Controller, Chandigarh, this Court feels that since petitioner/JD had not paid the mesne profits, as such, the learned lower Court was within its right to



issue the warrants of attachments of the property of the petitioner/JD vide order dated 19.12.2024 and no separate suit was required to file for recovery of mesne profits. Hence, the order dated 30.07.2025 passed by the learned Civil Judge (Junior Division), Chandigarh, is well reasoned order and needs no sort of interference and the same cannot be termed to be illegal and perverse in any manner as all the aspects were discussed by the learned Civil Judge (Junior Division), Chandigarh, in the said order and as such, the present revision petition stands dismissed.

(AMARINDER SINGH GREWAL)
JUDGE

02.09.2025
anil

Whether speaking/ reasoned:	Yes/No
Whether Reportable:	Yes/No