

**CR-7645-2019 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****(241)****CR-7645-2019 (O&M)****Date of decision: - 13.02.2025****Guranhat Singh****....Petitioner****Versus****Satish Kumar and another****.....Respondents****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. G.S. Punia, Senior Advocate, with
Ms. Harveen Kaur, Advocate
for the petitioner.

Mr. Sudeep Mahajan, Advocate, and
Ms. Saachi Mahajan, Advocate
for the respondents.

**********VIKAS BAHL, J. (ORAL)**

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 22.08.2019 (Annexure P-5) passed in Execution Petition No.48 of 2016, whereby the application filed by the petitioner for issuance of warrant of possession has been dismissed.

2. Learned senior counsel for the petitioner has submitted that in the present case, vide order dated 04.04.2012 (Annexure P-1), stay was granted in favour of respondent No.1-tenant on the condition that he would deposit all the arrears of rent by 30.04.2012 with the Rent

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Controller and shall continue depositing the rent which accrues by the 7th of every month with the Rent Controller, failing which, the interim protection granted would be deemed to have been vacated. It is further submitted that thereafter, vide order dated 31.05.2017 (Annexure P-2), the application for mesne profit filed by the petitioner was disposed of in the following terms: -

“Accordingly, the present application is allowed. The tenant will deposit the arrears of mesne profits for the period preceding 3 years from November, 2014, from the date of filing of the application, by 31.08.2017, before the Rent Controller. The amount will be over and above the amount of Rs.600/- per month, which is being paid. Keeping in view the fact that the amount is paltry, it would be appropriate if the landlord is permitted to withdraw the same, subject to final decision of the revision petition, regarding the adjustment of the amount in future rent or refund etc.

CM application stands disposed of.

31.05.2017”

It is submitted that in the impugned order, the aspect with respect mesne profit to the extent of Rs.2000/- per month in addition to Rs.600/- rent from November, 2011 has not been taken into consideration and the amount of Rs.2000/- per month has been taken into consideration from January, 2018. It is further submitted that on the said ground, the order passed by the Rent Controller deserves to be set aside and the matter deserves to be considered afresh after taking into consideration both the above-said orders.

4. Learned counsel appearing for the respondents has submitted



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that in the present case, since the execution application was filed prior to the order granting mesne profit in favour of the petitioner, thus, the Executing Court cannot be said to have faulted for not having taken into consideration the order passed by the Co-ordinate Bench of this Court with respect to mesne profit. It is further submitted that at any rate, in case the matter is remanded back, liberty be granted to the respondents to raise all pleas as are available to them in law.

5. Keeping in view the above-said facts and circumstances and the fair stand taken by learned senior counsel for the petitioner as well as learned counsel for the respondents, the present petition is disposed of and the order dated 22.08.2019 (Annexure P-5) is set aside and the matter is remanded to the Rent Controller to decide the aspect of rent/arrears/mesne profit afresh. It would be open to both the parties to raise all pleas as available to them in law before the Rent Controller.

6. All pending application(s), if any, stand disposed of in view of the present order.

February 13, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No