**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****130****RSA-478-1995 (O&M)****Date of decision: 10.03.2026****Municipality, Bathinda****...Appellant(s)****Vs.****Subhash Chander****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sanjeev Soni, Advocate
for the appellant.

Mr. Ashok Paul Batra, Advocate
for the respondent.

NIDHI GUPTA, J.

Present Second Appeal has been filed by the defendant-Municipality against the judgment of reversal; whereby suit filed by the plaintiff/respondent for perpetual injunction although dismissed by the learned Trial Court, has been decreed by the learned First Appellate Court.

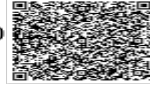
2. The pleaded case of the plaintiff/respondent was that father of the plaintiff, namely, Dewan Chand was a tenant under the defendant/appellant in the suit shop bearing No. 19 at a monthly rent of Rs.535/-, on the basis of Agreement dated 28.2.1983 Ex.D1 between the defendant and father of the plaintiff. It was contended that the Plaintiff was the member of the Hindu Undivided Family with his father and also attended to business alongwith his father. Father of the plaintiff expired on 10.07.1989 and, thereafter, plaintiff has been in possession of the suit



shop as tenant and has been paying rent regularly. It was alleged that Defendant-Committee had issued notice No. 740/R dated 15.02.1988 for enhancing monthly rent from Rs.535 to Rs.642. It was contended that the said legal notice is invalid, illegal, void as the Executive Officer of the Committee is not competent to enhance the rent or evict him from the shop except under the provisions of East Punjab Rent Restriction Act. With these pleadings, present suit was filed on 05.08.1989.

3. Upon appraisal of the pleadings and the evidence led by the parties, the learned Senior Sub Judge, Bathinda had dismissed the suit of the plaintiff vide judgment and decree dated 27.11.1991 *inter alia* taking into account the fact that admittedly, father of the plaintiff had been tenant under the defendant-Municipality; and although plaintiff is in possession of the shop however, he had not executed any independent agreement or Bond in favour of the defendant. Learned Sub Judge, Bathinda also took into account the fact that Municipal Committee being the autonomous body, is not covered by East Punjab Urban Rent Restriction Act; and that the defendant would have to seek eviction of the plaintiff as unauthorized person under the provisions of the Punjab Public Premises (Eviction and Rent Recovery) Act. However, the Civil Appeal filed by the plaintiff was accepted by learned Additional District Judge, Bathinda vide the impugned judgment and decree dated 20.09.1994. Hence, present second appeal by the defendant Municipal-Committee.

4. At the very outset, learned counsel for the appellant-Municipal Committee submits that the legal position in respect of the



present appeal stands settled by way of judgments passed by this Court in **Mulkh Raj Mutneja, Ex-Municipal Commissioner v. State of Punjab, (P&H)(D.B) : Law Finder Doc Id # 38383; Sukhwinder Singh v. Deputy Commissioner (P&H)(DB) : Law Finder Doc Id # 1443148; and Parvinder Kumar and others v. Municipal Corporation, Amritsar (Punjab And Haryana) : Law Finder Doc Id # 409867;** wherein, the validity of the Instructions issued by the appellant for enhancement of rent, has been upheld. Thus, the impugned judgment and decree dated 20.09.1994 deserves to be set aside as it has been passed by the learned First Appellate Court on the mistaken premise that the Policy of 1989 issued by the appellant was mere Instructions issued by the Government and was not law; and therefore, rent cannot be enhanced.

5. Learned counsel for the appellant further points out that the respondent/plaintiff is in arrears of rent for an amount of Rs.9,13,442/-; and alongwith GST, the arrears of rent would be Rs.11,69,206/-.

6. It is accordingly, prayed that the present Appeal be allowed; and the impugned judgment passed by First Appellate Court be set aside.

7. Learned counsel for the respondent is unable to dispute the above said position in law. Learned counsel however submits that the rent already paid by the plaintiff, be deducted while calculating the arrears due. It is further submitted that the respondent be granted permission to make payment of arrears of rent by way of installments.



8. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find merit in the submissions advanced on behalf of the appellant-Municipality.

9. Learned First Appellate Court has non-suited the appellant by holding that the Circular Ex.D8 issued by the Punjab Government is only regarding the policy matter and is not a law and is thereby not giving any authority to the appellant to enhance the rent. It has further been observed by the learned First Appellate Court that on the basis of the said Circular, no Notification has been issued by the defendant-Committee; and therefore, Defendant-Committee was not authorized to enhance rent periodically. Learned First Appellate Court has further held that the periodic enhancement of rent by the Municipal Committee is arbitrary and discriminatory.

10. However, the said reasoning of the learned First Appellate Court is, on the face of it incorrect, as it has failed to appreciate that first and foremost, as per condition No. 17 of the Agreement dated 28.02.1983 Ex.D1 entered into between the father of the plaintiff and the defendant, the Municipal Committee may enhance the rent according to the directions of the State Government after a period of 3 years. The said Agreement Ex.D1 has been duly proved from the evidence of DW1 Hukam Chand, Rent Clerk. DW1 has also produced copy of the letter of the State Government regarding periodic increase in property of the Municipal Corporation et cetera; whereby the Committee has empowered to enhance the rent.

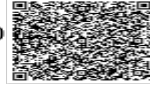


11. Learned First Appellate Court has also misguided itself in respect of the fact that the shop in dispute was within the purview of the East Punjab Urban Rent Restriction Act; and therefore, there was relationship of landlord-tenant between the parties. However, First Appellate Court lost sight of the fact that after father of the plaintiff had expired on 10.07.1989; the plaintiff had never executed any fresh Agreement or Bond in favour of the defendant. As such, there was no relationship of landlord-tenant between the parties. Moreover, as the present case did not fall within the purview of East Punjab Urban Rent Restriction Act, there is no inheritable statutory tenancy and no bilateral contract of tenancy between the appellant and the respondent.

12. It is also to be noted that the impugned notice for enhancing monthly rent from Rs.535 to Rs.642 was issued on dated 15.02.1988 i.e. prior to the death of father of the plaintiff. It is also undisputed fact on record that father of the plaintiff had duly challenged the impugned notice dated 15.02.1988 by way of a civil suit, which was decided in favour of the defendant. As such, suit of the plaintiff seeking injunction restraining the defendant from recovery of arrears of rent, was not maintainable.

13. Last but not the least, learned counsel for the respondent has not disputed the legal position in this regard to the effect that Instructions issued by the defendant-Municipal Committee for periodic enhancement of rent, has been upheld by Division Bench of this Court in **Mulkh Raj Mutneja, Ex-Municipal Commissioner v. State of Punjab, (P&H)(D.B) :**

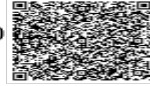
Law Finder Doc Id # 38383; wherein it is held as under:-



“D. Constitution of India, Article 226 - Instructions - State Government issuing instructions to the Municipal Committees to enhance rate of rent periodically - Petitioners alleging discrimination vis-a-vis the tenants on individual properties and the tenants on Municipal properties - Keeping in view the trend of rise in prices, Govt. is justified in issuing uniform criteria to generate funds to manage the affairs of Municipal Committees by periodical increase in rent of Municipal properties.”

The relevant para of the said judgment is as under:-

“22. It deserves notice that the relationship between the landlord and tenant is of a purely contractual nature. The provisions of the Rent Restriction Law do not apply. Still further, the Council which is the owner of the property has a right to fix the rent or provide for its periodic increase. On account of populist considerations, the Council may agree to fix certain terms. However, if the State Government in exercise of its statutory powers feels compelled to lay down a uniform criteria, it cannot be accused of having acted unfairly or arbitrarily. Undeniably, there is an all round increase in prices. The cost of works to be executed by the Committees is increasing. The projects undertaken by the Committees or the usual functions of maintenance of roads etc. make it incumbent for it to look for additional resources. Whenever there is an effort to levy a new tax or fee, there is all-round resistance. On the other hand, the expenses on account of wages and even cost of maintenance are continuously rising. The inflation is a fact of life and has to be recognised. In this situation, the State Government was fully justified in laying down a uniform policy for the periodic increase in rents and for the transfer of tenancy. Its action in doing so was only a



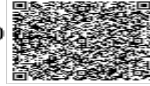
recognition of the existing situation. It was calculated to provide additional resources to the Committees. The State Government cannot be said to have acted unfairly or arbitrarily. Its action calls for no interference. It is in larger public interest and deserves to be upheld.”

14. Again, in **Sukhwinder Singh v. Deputy Commissioner (P&H)** (DB) : Law Finder Doc Id # 1443148; another Division Bench of this Court has held as under: -

“Unauthorised use and occupation - Eviction and payment of damages - Appellant admitted his relationship with Municipal Corporation as that of licensee/licensors - Appellant required to pay rent/licensee fee of shop in dispute at enhanced rate from time to time as per State Government's instructions but same not paid at rate fixed - Thus, violation of norms of license - Further, appellant handed over possession to Sub-tenants and made addition and alteration without permission of Municipal Corporation therefore, became unauthorised occupant of shop in dispute - Hence, eviction and order to pay damages on account of unauthorised use and occupation upheld.”

The relevant para of the said judgment is as under:-

“7. A perusal of the record leaves no manner of doubt that the appellant has admitted his relationship with respondent No.3 as that of licensee/licensors. The appellant was required to pay the rent/licensee fee of the shop in dispute at enhanced rate from time to time as per the State Government's instructions but the same were not paid at the rate fixed and thus, there was violation of the norms of the license. Further, categorical finding had been recorded by the



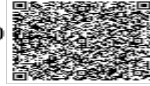
authorities below and affirmed by the learned Single Judge that appellant had handed over the possession to M/s Surinder Cycle Works and had also made addition and alteration without the permission of the Municipal Corporation. Once that was so, he had become unauthorised occupant of the shop in dispute. Hence, his eviction from the disputed property could not be said to be bad in the eyes of law. Moreover, he was rightly held liable to pay damages on account of unauthorised use and occupation. It would be relevant to notice that the oral as well as documentary evidence, which was led on record by respondent No.3 went rebutted and unchallenged by the appellant.”

15. In **Parvinder Kumar and others v. Municipal Corporation, Amritsar (Punjab And Haryana) : Law Finder Doc Id # 409867**; the above position was reiterated by holding that :-

“A. Punjab Municipal Act, 1911 Licensees challenging enhancement of Teh Bazari fees - Plaintiffs are mere licensees entitled to occupy premises against payment of Teh Bazari/licence fee - Marginal increase in the rate of Teh Bazari from Rs. 50/- to Rs. 75/- per month held not excessive or arbitrary - No material produced to show that the increase was unjustified - Plaintiffs have no legal right to restrain the Municipal Corporation from raising the Teh Bazari fee.”

The relevant para of the said judgment is as under:-

“4. The plaintiffs are merely licensees entitled to occupy the premises against payment of Teh Bazari/licence fee. As observed earlier, the Municipal Corporation constructed pucca booths and gave it to the plaintiff appellants for carrying on their trade against payment of Teh



Bazari/licensee fee. The appellants are only licensees. As per the agreement arrived at between the parties, when the premises were offered to the appellants. It was specifically mentioned therein that the appellants will occupy the various booths/shops against payment of Teh Bazari. This agreement was arrived at between the parties to the litigation after 1.4.1981. The marginal increase in the rate of Teh Bazari From Rs. 50/- to Rs. 75/- in each case is not excessive or arbitrary. No material was produced before the Court to conclude that the increase in the Teh Bazari/licence fee was arbitrary or that similar type of accommodation in the same locality was fetching rent less than Rs. 75/- per mensem. If any such evidence had been brought on the file that with regard to the shops constructed after 1981 having similar area and accommodation the rate of rent was less than Rs. 75/- it could reasonably be argued by the learned counsel for the appellants that the increase in the Teh Bazari fee made by the respondent was not justified. In the absence of any such evidence, it is difficult to hold that the increase is not warranted. Even otherwise, the plaintiff can maintain a suit for perpetual injunction if they are able to establish some semblance of a legal right which had been violated entitling them to seek redress in the Court of law. The appellants are licensees and the increase in the licence fee is only marginal and I do not find, in the circumstances of the present case, interference in the proposed increase by the Municipal Corporation is called upon Resultantly, the appeal is dismissed."

16. In view of the above noted, factual and legal position, the present Second Appeal is **allowed**; and the impugned judgment and

decree dated 20.9.1994 passed by learned Additional District Judge, Bathinda is set aside; and the judgment and decree dated 27.11.1991 passed by the learned Senior Sub Judge, Bathinda dismissing the suit of the plaintiff/respondent, is restored.

17. Pending applications, if any, stand disposed of.

10.03.2026
Divyanshi

(NIDHI GUPTA)
JUDGE

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