



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

CR No.3526 of 2021 (O&M)

Date of Decision:-13.05.2026

M/s Ahuja Kashyap Private Limited

.....Petitioner.

Versus

M/s Mandap International Private Limited

.....Respondent.

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present:- Mr. Mayank Bajaj, Advocate,
Mr. Abhinav Bajaj, Advocate and
Mr. Sartaj Singh Sudan, Advocate
for the petitioner.

Mr. Kamal Sehgal, Senior Advocate with
Mr. Charanji Lal, Advocate and
Mr. Ravinder Pankaj, Advocate
for the respondent.

VIKRAM AGGARWAL, J. (ORAL)

The instant revision petition assails order dated 28.07.2021 (Annexure P-1) passed by the Appellate Authority, Faridabad, dismissing the appeal against order dated 14.02.2019 (Annexure P-5) passed by the Court of Rent Controller, Faridabad, vide which the petition under Section 4 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (hereinafter referred to as the 'Rent Act') for fixation of fair rent was disposed of, fixing the fair rent at Rs.1,03,680/- per month.

2. The petitioner/landlord instituted a petition under Section 4 of

the Rent Act against the respondent-tenant. It was claimed that the petitioner was the owner/landlord of an industrial plot No.25 situated at DLF, Industrial Area, Faridabad, measuring 2398 square yards (hereinafter referred to as the 'suit property'). It was claimed that a lease deed dated 27.11.1982 had been executed between the parties vide which the suit property had been rented out to the respondent along with the building constructed thereupon and the plant and machinery as well. The said lease deed was for a period of 05 years w.e.f. 01.12.1982. The rate of rent was Rs.24,000/- per month for the first three years and Rs.27,000/- per month for the 4th and 5th year.

2.1. It was averred that the said lease deed was renewed from time to time with the mutual consent of the parties and the last lease deed was executed on 07.05.2003 whereafter, the lease was not renewed.

2.2. A suit for specific performance was instituted by the respondent seeking to get the lease deed extended. The said suit was decreed vide judgment and decree dated 25.10.2012. However, the appeal instituted by the petitioner against the said judgment and decree was allowed by the Court of Additional District Judge, Faridabad, vide order dated 20.11.2013 and the suit was dismissed. The respondent, however, continued to remain in possession of the suit property.

2.3. It was averred that no rent had been agreed upon between the parties preceding the date of presentation of the application under Section 4 of the Rent Act. It was averred that the respondent used to send cheques @ Rs.72,000/- per month. They were, however, not presented by the

petitioner to his bank. The respondent then started depositing the same with the Rent Controller, Faridabad. Under the circumstances, the petition for determination of fair rent was instituted.

2.4. It was claimed that the fair rent had to be determined at the market rate prevailing for similar buildings in the same locality. It was claimed that the suit property had a very good location and was situated in a planned industrial area, 03 KMs. from the Delhi border. It was averred that the area had connectivity through the Delhi Metro Rail Corporation. It was claimed that the prevailing rent in the same area of a similar property without plant and machinery was Rs.5,00,000/- per month.

3. The petition was opposed by way of a reply. Certain preliminary objections as regards maintainability, *locus standi*, cause of action etc. were raised. It was averred that a registered lease deed had been executed between the parties in which it had been agreed that in case of renewal of the lease, there would be enhancement of 20% rent on renewal of 05 years. It was averred that a sum of Rs.1,03,680/- per month was being paid as rent.

3.1. On merits, the relationship of landlord and tenant was admitted. It was admitted that the last deed executed was on 07.05.2003. It was averred that the lease deed was deemed to have been renewed thereafter, as the respondent was continuing as a tenant of the petitioner and the petitioner had been receiving monthly rent, the same being deposited with the Court of the Rent Controller. It was averred that the rent being paid was Rs.1,03,680/- per month. Dismissal of the petition was,

therefore, prayed for.

4. From the pleadings of the parties, following issues were framed:-

- (1) What is the basic rent? OPP**
- (2) What is the fair (*sic pay*) rent? OPP**
- (3) Whether the petition of the petitioner is not maintainable? OPR**
- (4) Relief.**

5. Parties led their respective evidence.

6. Vide judgment dated 14.02.2019, the Court of Rent Controller assessed the fair rent @ Rs.72,011/- per month. However, since it was the admitted case of both sides that rent was being paid by the respondent @ Rs.1,03,680/- per month, the fair rent was assessed as Rs.1,03,680/- per month from the date of filing of the petition.

7. The Appellate Authority also upheld the said decision leading to the filing of the instant revision petition.

8. I have heard learned counsel for the parties.

9. Learned counsel for the petitioner has vehemently submitted that both Courts have gravely erred in fixing the fair rent on the basis of the rent as per the lease deed dated 07.05.2003, whereas the rent should have been fixed as per the prevalent market price of similarly situated properties. It has been submitted that a registered lease deed of a property had been produced as Ex.PW3/A, which was pertaining to a plot measuring 1300 square yards having a rent of Rs.3,35,000/- per month. It has been

submitted that the suit property measures about 2400 square yards and also has a building constructed over it along with plant and machinery and, therefore, the prevalent market rent for such a property would not be less than Rs.5,00,000/- per month.

9.1. It has been argued that both Courts erroneously did not assess the fair rent on the basis of the registered lease deed and lost sight of the fact that there was no agreed rent which had been admitted by the respondent also in the written statement. Learned counsel submits that once there was no agreed rent, the rent as per the lease deed dated 07.05.2003 could not have been taken to be the agreed rent as the tenancy would no longer be subsisting, though the respondent continued to be in possession of the suit property.

9.2. Learned counsel has referred to the impugned judgments in detail and has submitted that the same are not sustainable. In support of his contentions, learned counsel has placed reliance upon the judgments of this Court in *Surinder Kumar Vs. Rattan Lal*, (2006) 3 RCR (Civil) 291 and *Vinod Thapar and another Vs. Seema Mehra and others*, (2015) 2 RCR (Rent) 165 and the judgments passed by the Hon'ble Apex Court in *Ishwar Swaroop Sharma Vs. Jagmohan Lal*, (2001) 1 Supreme Court Cases 218; *State of Haryana Vs. Ram Singh*, (2001) 6 Supreme Court Cases 254; *Prem Singh and others Vs. Birbal and others*, (2006) 5 Supreme Court Cases 353 and *Hemalatha (D) by LRs Vs. Tukaram (D) by LRs and others*, 2026 SCC Online SC 106.

10. Per contra, learned Senior counsel representing the respondent

has submitted that there is no illegality in the impugned judgments and that the fair rent was assessed strictly in accordance with law. Learned counsel has also referred to the impugned judgments and has placed reliance upon the judgment passed by the Hon'ble Apex Court in *Ishwar Swaroop Sharma Vs. Jagmohan Lal (supra)* and the judgment of a full Bench of this Court in the case of *Asharafi Devi Memorial Charitable Trust Vs. Ram Kumar, 2008(1) RCR(Rent) 137*.

11. I have considered the submissions made by learned counsel for the parties.

12. Section 4 of the Rent Act deals with determination of fair rent and lays down as under:-

“4. Determination of fair rent:- (1) The Controller shall, on application by the tenant or the landlord of a building or rented land, fix the fair rent for such building or rented land after holding such enquiry as he may think fit. Such fair rent shall be operative from the date of application.

(2) In fixing the fair rent under this section, the Controller shall first determine the basic rent which shall be,-

- (a) in respect of the building the construction whereof was completed on or before the 31st day of December, 1961 or land let out before the said date, the rent prevailing in the locality for similar building or rented land let out to a new tenant during the year 1962; and***
- (b) in respect of the building the construction whereof is completed after the 31st day of December, 1961 or land let out after the said***

date, the rent agreed upon between the landlord and the tenant preceding the date of the application, or where no rent has been agreed upon, the basic rent shall be determined on the basis of the rent prevailing in the locality for similar building or rented land at the date of application.

(3) In fixing the fair rent, the Controller may allow an increase or decrease on the basic rent determined under subsection (2), not exceeding twenty-five per centum of the rise or fall in the general level of prices since the date of agreed rent or the date of application, as the case may be, in accordance with the average of All India Wholesale Price Index Numbers, as determined by the Government of India, for the calendar year immediately preceding the date of application.

(4) Notwithstanding that the fair rent for building or rented land has been fixed under the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as the 1949 Act), a landlord or tenant of such building or rented land shall be entitled to get its fair rent fixed under this section.

(5) Notwithstanding anything contained in this Act, the Controller may fix the fair rent on the basis of the compromise arrived at between the parties to the proceedings. Such rent shall be binding only between the parties and their heirs.”

13. Section 4(2)(b) would be the relevant clause insofar as the present case is concerned as the suit property was taken to have been constructed after 31.12.1961. There is no contest to the said finding and, therefore, no further discussion is required on the same. The point of

conflict is as to whether the fair rent was to be determined as per the rent agreed upon between the landlord and tenant preceding the date of the application or it had to be determined on the basic rent or as per the rent prevailing in the locality for a similar building on rented land on the date of the application.

14. Before examining the controversy on merits, it would be apposite to refer to the law on the subject.

15. In the case of in *Ishwar Swaroop Sharma Vs. Jagmohan Lal (supra)*, the Hon'ble Apex Court was seized of an identical issue. In that case, the dispute was with regard to a shop which had been constructed in August, 1962 and had been let out by the landlord to the tenant in the year 1975 at a monthly rent of Rs.200/-. The landlord filed an application under Section 4 of the Rent Act in the year 1989. The Rent Controller took note of rent of similar premises in the locality and determined the fair rent payable in respect of the shop in question @ Rs.1,000/- per month. An appeal was preferred by the tenant. The Appellate Authority came to the conclusion that since the landlord had agreed to accept Rs.200/- per month from the tenant, he was not entitled to the market rent, but to a percentage increase on the agreed rent. This decision of the Appellate Authority was affirmed by the High Court in revision. The matter then reached the Hon'ble Apex Court. The Hon'ble Apex Court also upheld the decision of the Appellate Authority and the High Court and held as under:-

“9. The key to the resolution of the dispute raised lies in the words "rent agreed" used in Section 4(2)(b). In a narrow

sense rent is understood as the payment agreed to be made to the landlord by the tenant in consideration for the right to use the rented premises. The landlord and the tenant agree that the tenant will be entitled to occupy and use the demised premises at an agreed rent. Without an agreement as to the rent payable there no tenancy is created. This is also how rent is defined in Section 105 of the Transfer of Property Act, 1882. The element of assent is an integral to the concept of rent. If the word 'rent' is given this narrow meaning then, as urged by the appellant the latter half of Section 4(2)(b) would indeed be rendered redundant. But the Legislature has used the word 'agreed' in juxtaposition to 'rent'. If the word rent is used in the narrow sense the word 'agreed' would be tautologous. We cannot assume that the Legislature has used any word without purpose. In our view, by using the words 'agreed rent' the Legislature intended to indicate that the word 'rent' must be construed in a wider sense to include, apart from the narrow connotation, any payment made for use of land where the quantum may have been fixed otherwise than by agreement. The definition of the word "tenant" In Section 2(h) of the Act also makes this clear:

"tenant" means any person by whom or on whose account rent is payable for a building or rented land and includes a tenant continuing in possession after the termination of his tenancy....

10. The tenancy being terminated the agreement ceases to operate as a voluntary bilateral transaction. With the cesser of the agreed tenancy, the agreement as to rent would also cease. Nevertheless, under Section 2(h) of the Act the tenant would be liable statutorily to make payment of 'rent'. Similarly after fair rent is fixed under Section 4 of the Act,

the rent payable is not the agreed rent.

11. Therefore for the purpose of determining fair rent Section 4(2)(b) draws a distinction between cases where the parties have agreed to the rent and cases where rent is payable otherwise than by agreement. In the first case, the agreed rent is to be taken as the base and the increase determined according to the formula provided in Section 4(3). In the second case, the base is the market rate.

12. There is no warrant for drawing any distinction between a monthly tenancy and tenancies for longer periods. Nor is it necessary that the agreement should have been entered into immediately preceding the date of the application. Section 4(2)(b) uses the word 'preceding' without any limitation. This may be contrasted with Section 3 where the word 'preceding' is qualified by the word 'immediately'.

13. For fixing the basic rent under Section 4 the only question would be was there a subsisting agreement of tenancy under which rent was payable when the application for fixation of fair rent was filed? If the answer is in the affirmative the agreed rent must be taken as the basic rent. If not, then the basic rent is the prevailing market rate. Therefore, even though the agreement may have been entered into in 1976 as is admittedly true in this case, but the tenancy was continuing until the date of the application, the Rent Controller was obliged to take the rate agreed to in 1976 as the basic rent under the first limb of Section 4(2)(b). It is only after the fair rent is fixed that the landlord could seek re-fixation under the second limb subject to the limitations provided in the Act, as the rent would then cease to be the agreed rent.”

16. A full Bench of this Court was also seized of a similar issue in

the case of *Asharafi Devi Memorial Charitable Trust Vs. Ram Kumar (supra)*. The said Bench also took the same view, following the judgment in the case of *Ishwar Swaroop Sharma Vs. Jagmohan Lal (supra)* and held as under:-

“8. The aforementioned enunciation of law in *Ishwar Swaroop 'Sharma's case (supra)* does not leave any manner of doubt that if on the date of filing of the application under Section 4 of the Act for determination of fair rent, the agreed rent was still in vogue thus, it has to be regarded as the basic rent and the same was to constitute the basis for determining fair rent.

9. A perusal of three Division Bench judgments of this Court in cases of *M/s, Bhagwan Singh and Company (supra)*, *Ved Parkash (supra)* and *Dayal Chand (supra)* would show that similar view has been taken by this Court. So there is, thus, no room to conclude that the rate of rent which was being paid by the tenant-petitioner, in the instant case it was Rs.500/- per month has to be regarded as agreed rate of rent as on 1-3-1995. Therefore, additions in accordance with Section 4(3) have been correctly made by the Appellate Authority and the same is liable to be upheld.

Likewise, the view taken by one of us (Hemant Gupta, J.) in the case of *Som Parkash (supra)* has to be upheld having laid down the correct law and the view of the learned single Judge in *Gobind Ram's case (supra)* is liable to be overruled.

10. x x x x x

11. For the reasons aforementioned, the question posed in first para of this judgment is answered in the affirmative. In other words, agreed rate of rent has to be regarded as basic rent within the meaning of Section 4(2)(b) of the Act in the

process of fixing fair rent irrespective of the fact whether the lease period stipulated in a lease deed has expired.”

17. Reverting to the facts of the present case, though the lease deed dated 07.05.2003 got determined, the respondent had been continuing in possession. The rent @ Rs.72,000/- per month was being deposited with the Rent Controller. It was rightly observed by both Courts that the tenancy could be considered to be a monthly tenancy. The rent of Rs.1,03,680/- was also being deposited by the respondent and the same was being accepted by the petitioner under protest. It was being withdrawn by the petitioner as well from the Court. Though, strictly, there was no agreed rate of rent, however, in terms of the ratio of law laid down in the case of ***Ishwar Swaroop Sharma Vs. Jagmohan Lal (supra)*** and ***Asharafi Devi Memorial Charitable Trust Vs. Ram Kumar (supra)***, the last rent would be the agreed rent as the tenancy was continuing until the date of the application. The Rent Controller, therefore, rightly took the rate of rent of Rs.72,000/- per month as the basic rent and then, calculated the fair rent. He also did not commit any error in holding that since a sum of Rs.1,03,680/- per month which was being paid by the respondent and being accepted by the petitioner could be said to be the fair rent. Therefore, no error was committed by assessing the said rent as the basic rent under the first limb of Section 4(2)(b) of the Rent Act. However, as observed by the Hon'ble Apex Court in ***Ishwar Swaroop Sharma Vs. Jagmohan Lal (supra)***, once the fair rent is fixed, the landlord could seek re-fixation under the second limb, subject to the limitations provided in the Rent Act as the rent would

then cease to be the agreed rent.

18. In view of the above, the instant revision petition is found to be devoid of merit and is, accordingly, dismissed.

Pending application(s), if any, shall also stand disposed of.

May 13, 2026
Yag Dutt

(VIKRAM AGGARWAL)
JUDGE

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