



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

**CR-2676-2025
Decided on : 05.05.2025**

M/s Bombay Emporium

..... Petitioner

Versus

Vipan Kumar Mahajan

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Sunil Agnihotri, Advocate
for the petitioner.

Mr. Anuj Raura, Advocate
for the Caveator-respondent.

VIKRAM AGGARWAL, J (ORAL)

The petitioner assails the order dated 21.03.2025, passed by the Appellate Authority, Chandigarh vide which mesne profits @ ₹1,80,000/- per month were assessed with effect from the date of order of ejectment.

2. The respondent-landlord instituted a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 'the Rent Act') seeking eviction of the petitioner-tenant from the ground floor of SCF No.20, Sector 20-C, Chandigarh (hereinafter referred to as 'the demised premises') on the ground of personal necessity, change of user and raising of illegal construction. The said eviction petition was allowed vide order dated 12.02.2024 (Annexure P-1), passed by the Court of learned Rent Controller, Chandigarh. An appeal was preferred by the petitioner-tenant



against the said decision which is stated to be pending.

3. During the pendency of the appeal, an application for assessment and payment of mesne profits @ ₹2,30,000/- (Annexure P-2) was moved. It was averred in the application that the demised premises had been rented out on 23.03.1981. The demised premises was situated in Sector 20-C, Chandigarh and was having a carpet area of 900 square feet. The initial rate of rent was very meagre which was eventually raised to ₹25,000/- per month. It was averred that SCF No.14 which is situated in the same lane in which the demised premises is situated, had been let out at the rent of ₹2,31,125/- per month vide lease deed dated 31.05.2021. It was averred that the demised premises which had been let out in 1981 could be let out at a monthly rent of Rs.2,30,000/- per month. It was averred that the market where the demised premises is situated is a very famous and prominent market.

4. The application was opposed. It was averred that the only intention of the respondent-landlord was to get the rent enhanced. ₹25,000/- per month were being paid to the respondent-landlord as per the market value. It was also averred that SCF No.14 had been constructed with all modern amenities whereas the demised premises was an old premises with no extra facility. The lease deed of SCF No.21 i.e. the adjoining SCF of the demised premises which had all modern facilities was attached with the reply, as per which rent was ₹1,81,888/- per month with a rebate of ₹21,888/- per month meaning thereby that the rent was ₹1,60,000/- per month. It was averred that the demised premises is an old premises and, therefore, the monthly rent would be much less than ₹1,60,000/- per month.



5. By way of the impugned order, mesne profits @ ₹1,80,000/- were assessed leading to the filing of the instant revision petition.

6. I have heard learned counsel for the petitioner as also learned counsel representing the caveator-respondent.

7. Learned counsel for the petitioner submits that the Appellate Authority has erred in assessing the mesne profits @ ₹1,80,000/- per month. He submits that the demised premises is an old premises with no modern amenities and, therefore, under no circumstances would it fetch a rent of ₹1,80,000/- per month. He submits that even otherwise, the petitioner is willing to amicably settle the matter with the respondent and that for the said purpose, the matter be referred for mediation.

8. Per contra, learned counsel for the caveator-respondent submits that his client is not willing for any amicable settlement and the matter be decided on merits.

9. I have considered the submissions made by learned counsel for the petitioner and find the same to be devoid of merit.

10. Admittedly, the eviction petition was allowed on 12.02.2024. Against the said decision, an appeal was filed by the petitioner-tenant which is still pending. An application for assessment of mesne profits was filed. Alongwith the same, a lease deed dated 24.04.2018 as regards SCF No.14 was produced on record as per which the rent was ₹2,31,125/- per month. The said lease deed was for a period of three years w.e.f. 01.06.2018 to 31.05.2021. It was also proved that in February, 2024, the rent of the said premises was paid at @ ₹2,32,200/- per month. Admittedly, the demised



premises is in the same lane and is similarly situated. The size is also the same. It was leased out in the year 1981 to the father of the petitioner-tenant. The stand taken by the petitioner-tenant that SCF No.14 is a new premises with modern amenities whereas the demised premises is an old property with no amenities is not acceptable for, no evidence to prove the said fact was produced. No photographs were produced which could have depicted the differences between the two. The non-production of photographs infact leads this Court to draw an adverse inference against the petitioner-tenant. The petitioner-tenant also produced a lease deed as regards SCF No.21 which was let out on a rent of ₹1,81,888/-. Even accepting that there was a rebate of ₹21,888/-, the monthly rent was ₹1,60,000/-. The learned Appellate Authority, in a way, took the middle path and neither assessed the mesne profits @ ₹2,32,000/- per month nor @ ₹1,60,000/- per month and instead assessed the same @ ₹1,80,000/- per month from the date of eviction. I find no illegality, whatsoever, in the impugned order. The Appellate Authority took a very balanced view keeping in view the principles enunciated by the Supreme Court of India in various judgments. The initial judgment on this issue was delivered by the Supreme Court of India in the case of *M/s Atma Ram Properties (P) Ltd. versus M/s Federal Motors Pvt. Ltd. 2005 (1) RCR 1* followed by the judgments of the Supreme Court of India in the cases of *State of Maharashtra & Anr. Versus M/s Super Max International Pvt. Ltd. & Ors. 2009 (2) R.C.R. (Rent) 246* (Law Finder Doc Id # 202683), *Anderson Wright and Co. versus Amar Nath Roy and others 2005 (1) R.C.R. (Rent) 624* (Law Finder Doc Id # 82680) and *M/s Martin & Harris Private Limited*



& Anr. Versus Rajendra Mehta & Ors 2022 (2) R.C.R. (Rent) 109 (Law Finder Doc Id # 2008346).

In view of the aforementioned facts and circumstances, I do not find any merit in the present revision petition and the same is accordingly dismissed.

Since the main petition has been decided, all pending applications stand disposed of.

05.05.2025

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(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No