

IN THE SUPREME COURT OF INDIA

APPELLATE JURISDICTION / LANDMARK PRECEDENT

Atma Ram Properties (P) Ltd. v. Federal Motors (P) Ltd.

Registry Status : REPORTED PRECEDENT -- OFFICIAL RECORD

1. EXECUTIVE SUMMARY & KEY HIGHLIGHTS

In this foundational tenancy and civil procedure precedent, a 2-Judge Bench of the Supreme Court speaking through Chief Justice R.C. Lahoti established the authority of appellate courts to impose market-rate user charges when granting a stay of eviction. The Court ruled that once an eviction decree is passed against a tenant by a competent court or tribunal, the statutory protection and contractual tenancy terminate, rendering the tenant's continued possession unlawful and in the nature of an unauthorized occupant. While preferring an appeal is a statutory right, obtaining a stay of execution under Order XLI Rule 5 CPC is an equitable, discretionary relief. Consequently, the appellate court has full jurisdiction under Order XLI Rule 5(1) & (3) to condition the stay on payment of reasonable monthly compensation (mesne profits) determined by prevailing market rentals, unrestricted by the nominal contractual rent.

- * Termination of Tenancy Upon Eviction Decree: Passing of an eviction decree extinguishes statutory tenancy; tenant's occupation post-decree is wrongful and akin to an unauthorized occupant.
- * Discretionary Character of Stay Under Order 41 Rule 5: Filing an appeal does not operate as an automatic stay of execution; stay is an equitable discretion subject to reasonable conditions.
- * Power to Order Market Rent / Mesne Profits: Appellate court has inherent jurisdiction under Order 41 Rule 5 to order payment of prevailing market rent during pendency of appeal.
- * Rent Control Ceiling Inapplicable Post-Decree: Statutory standard rent caps under rent control legislation apply only during the subsistence of tenancy, not to post-decree stay conditions.
- * Balancing Decree-Holder and Tenant Equities: Prevents tenants from exploiting procedural delays in appellate courts while occupying prime commercial properties at throwaway rentals.

2. FACTUAL MATRIX & IMPUGNED PROCEEDINGS

Atma Ram Properties (P) Ltd. was the owner and landlord of prime commercial premises in Connaught Circus, New Delhi, let out to Federal Motors (P) Ltd. at a nominal contractual rent of Rs. 371.90 per month.

The landlord instituted eviction proceedings under Section 14(1)(b) of the Delhi Rent Control Act, 1958 on the ground of unauthorized subletting and parting with possession of the premises to a sub-tenant.

On March 19, 2001, the Additional Rent Controller passed an eviction order against Federal Motors.

Federal Motors preferred a statutory appeal before the Rent Control Tribunal under Section 38 of the Act and moved an application under Order XLI Rule 5 CPC seeking stay of execution of the eviction order.

By an order dated April 12, 2001, the Tribunal granted stay of execution on condition that Federal Motors deposit Rs. 15,000 per month (the assessed prevailing market rent) by way of use and occupation charges.

Federal Motors filed a petition under Article 227 of the Constitution before the Delhi High Court. The High Court modified the Tribunal's order, holding that the Tribunal had no jurisdiction to direct payment of anything more than the contractual rent of Rs. 371.90. The landlord appealed to the Supreme Court.

3. RATIO DECIDENDI (VERBATIM COURTROOM HOLDING)

Per R.C. Lahoti, C.J. (for the Bench):

"8. It is well settled that mere preferring of an appeal does not operate as stay on the decree or order appealed against nor on the proceedings in the court below. A prayer for the grant of stay of proceedings or on the execution of decree or order appealed against has to be specifically made to the appellate court. The power to grant stay is discretionary and flows from the jurisdiction conferred on an appellate court by Order XLI Rule 5 of the Code of Civil Procedure."

"9. While granting an order of stay, the appellate court has jurisdiction to put the appellant on such reasonable terms as would, in its opinion, reasonably compensate the decree-holder for loss occasioned by delay in execution of decree by the grant of stay order, in the event of the appeal being dismissed... The power to grant stay is accompanied by the power to impose reasonable terms and conditions."

"13. Once an eviction decree has been passed, the contractual or statutory relationship of landlord and tenant comes to an end. From the date of the decree of eviction, the tenant's possession ceases to be lawful and becomes that of a person wrongfully retaining possession. His liability to pay rent ceases and is replaced by a liability to pay mesne profits or damages for use and occupation under Section 2(12) of the Code of Civil Procedure."

"18. While ordering a stay of execution of an eviction decree, the appellate court can direct the tenant to pay such compensation as would reasonably represent the market rental value of the property. The tenant cannot insist that he should be allowed to enjoy the property during appeal at the nominal contractual rent fixed decades ago. Rent control legislation restricts rent during the subsistence of the tenancy; once an eviction decree is passed, the tenant cannot take shelter behind the standard rent provisions to resist payment of reasonable market compensation under Order XLI Rule 5."

"19. We hold that the Rent Control Tribunal had full jurisdiction to impose the condition of depositing Rs. 15,000 per month. The High Court erred in interfering with this sound exercise of discretion under Article 227. The appeal is allowed and the Tribunal's order is restored."

4. OBITER DICTA & JUDICIAL OBSERVATIONS

Abuse of Appellate Process by Commercial Tenants:

The Chief Justice observed that landlords are frequently subjected to harassment by commercial tenants who, having suffered an eviction decree, exploit lengthy delays in appellate dockets to continue occupying valuable premises in commercial hubs at nominal rents, effectively depriving the owner of commercial returns.

Mechanism for Holding Market Rent:

The Court suggested that to ensure fair play, the appellate court should direct that market rent either be deposited in court and invested in interest-bearing fixed deposits, or paid directly to the landlord subject to an undertaking to refund or adjust the amount in the event of the tenant succeeding in the appeal.

5. POINTS OF LAW FRAMED & ANSWERED

Legal Issue Framed	Supreme Court's Holding
Does an appellate court granting stay of eviction have jurisdiction to order market rent exceeding contractual rent?	Yes. The Supreme Court held that under Order XLI Rule 5 CPC, appellate courts have full jurisdiction to condition stay on payment of reasonable market rent / mesne profits.
What is the legal status of a tenant's possession once an eviction decree is passed?	Upon passing of an eviction decree, statutory protection ceases; the tenant's continued possession is wrongful, rendering him liable for mesne profits under Section 2(12) CPC.
Can rent control standard rent restrictions limit the appellate court's power to award market-rate use charges during appeal?	No. Rent control statutory rent caps apply to subsisting tenancies; they do not restrict the appellate court's equitable power to impose market-rate conditions for staying execution.

6. STATUTORY FRAMEWORK & MODERN LEGISLATIVE ALIGNMENT

Precedent Reference / Former Statute	Modern Act (BNSS / BNS / BSA / CPA)	Doctrinal & Procedural Analysis
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Code of Civil Procedure, 1908 - Order XLI Rule 5(1) & (3)	Code of Civil Procedure, 1908 (Preserved)	Provides discretionary appellate jurisdiction to stay decree execution subject to imposing reasonable conditions to prevent substantial loss to decree-holder.
Code of Civil Procedure, 1908 - Section 2(12)	Civil Mesne Profits Jurisprudence	Defines mesne profits as profits which the person in wrongful possession actually received or might with ordinary diligence have received.
Delhi Rent Control Act, 1958 - Section 14	Model Tenancy Act, 2021 - Section 23	Modern tenancy laws expressly mandate enhanced compensation (double/four times rent) for holding over post-termination; Atma Ram anticipated this equity.

7. SUBSEQUENT JUDICIAL TREATMENT & LINEAGE

- * State of Maharashtra v. Super Max International (P) Ltd. (2009) 9 SCC 772 (3-Judge Bench): Fully affirmed Atma Ram Properties, confirming market rent conditions during stay of eviction.
- * Marshall Sons & Co. (I) Ltd. v. Sahi Oretrans (P) Ltd. (1999) 2 SCC 325: Predecessor line integrated and harmonized into Atma Ram doctrine.
- * Martin & Harris Laboratories Ltd. v. Rajendra Khosla (2020 SCC OnLine SC 1099): Applied Atma Ram to determine commercial use charges for prime real estate during civil appeals.
- * High Courts Nationwide: Universally applied in rent control, eviction, and possession appeals to grant market-rate mesne profits as condition for stay.

8. PRACTICAL LITIGATION PLAYBOOK & STRATEGIC CHECKLIST

- * File Immediate Application Under Order 41 Rule 5: Upon receipt of notice of appeal, file a formal application seeking vacation of stay or payment of market rent.
- * Produce Concrete Rental Comparables: Place registered lease deeds of neighbouring properties, valuer reports, and municipal circle rates on record to establish market value.
- * Seek Direct Monthly Disbursement: Request the appellate court to direct monthly payment directly to the landlord, or at least disbursement of admitted amounts.
- * Insert Injunction on Subletting: Ensure the stay order strictly prohibits the appellant from altering the structure or creating third-party rights.
- * Submit Counter-Valuation Reports: Place contemporaneous lease deeds of similar modest premises to counter exorbitant rental claims made by the landlord.
- * Offer Interest-Bearing Court Deposit: Seek permission to deposit reasonable charges into court rather than paying directly to the landlord to prevent recovery issues.
- * Seek Expeditious Hearing of Appeal: If substantial market rent is imposed, file an application for day-to-day expedited hearing of the statutory appeal.
- * Demonstrate Financial Inability: If representing small residential tenants, argue personal hardship to persuade the court to moderate the use and occupation charges.