



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL REVISION APPLICATION NO.308 OF 2011
WITH
INTERIM APPLICATION NO. 11935 OF 2025
WITH
INTERIM APPLICATION NO. 13549 OF 2023
WITH
CIVIL APPLICATION NO. 273 OF 2011**

State Trading Corporation of India Ltd.,
a Company registered under Companies
Act, 1956, having its Registered office and
Corporate Office at Jawahar Bhavan,
Janpath, New Delhi 110 001, and,
having branch office on 6/7th floors,
Air India Bulding, Nariman Point, Mumbai-21
And at present having its office at
Premises No. 601, 6th floor, Maker Chamber
No. IV, Nariman Point, Mumbai - 400 021,
and also presently at Marathon Next Gen,
Inova B-1, 201, 2nd floor, Ganpatrao Kadam Marg,
Lower Parel (W), Mumbai - 400013

....Applicant
(Org. Defendant)

Versus

1. Ravinder Singh Indersingh Sehgal
2. Smita Ravinder Singh Sehgal (Deceased)
Through Legal Heirs
- 2.A Mr. Alankar Ramesh Joshi
Self Employed, Age-46 years,
Holland Close, #06-45, Singapore-272205
- 2.B Master Arnav Alankar Joshi
Minor (Through their father Alankar Joshi)
Age-15 yrs, Holland Close, #06-45,
Singapore-272205

2.C Master Arjan Joshi
Minor (Through their father Alankar Joshi)
Age-12 yrs. Holland Close, #06-45,
Singapore-272205

3. Gazala Singh Sehgal
All residing at C-17, Cozy Home,
Pali Hill, Bandra, Mumbai 400 050

...Respondents
(Orig. Plaintiffs)

WITH
CIVIL REVISION APPLICATION NO. 835 OF 2014
WITH
INTERIM APPLICATION NO. 12750 OF 2024
WITH
INTERIM APPLICATION NO. 11598 OF 2025

State Trading Corporation of India Ltd.,
a Company registered under Companies
Act, 1956, having its Registered office and
Corporate Office at Jawahar Vyapar Bhavan,
Bhavan, Tolstoy Marg, New Delhi 110001, and,
having its branch office on 6/7th floors,
Air India Bldg., Nariman Point, Mumbai
And at having its office at Premises No. 601,
6th floor, Maker Chamber No. IV,
Nariman Point, Mumbai - 400 021,
and presently having their office at Marathon Next Gen,
Inova B-1, 201, 2nd floor, G. K. Marg,
Lower Parel (W), Mumbai - 400013

...Applicant
(Orig. Defendant)

Versus

Mrs. Godavaridevi Agarwal,
Age 62 years, Occ. House Wife, 38,
Hatkesh Co-op. Hog. Soc. Ltd.,
N. S. Road No. 6, J. V. P. D.,
Vile Parle (West), Mumbai-400 056.

...Respondent
(Orig. Plaintiff)

**WITH
CIVIL REVISION APPLICATION NO. 929 OF 2014
WITH
INTERIM APPLICATION NO. 11620 OF 2025**

Mrs. Godavaridevi wd/o Kamalkumar Agrawal,
Age 60, Adult, Occu., Housewife
R/o.38, Hatkesh Co-op. Housing Society,
N. S. Road No. 6, J. V. P. D. Vile Parle (W),
Mumbai-400 056.

...Applicant
(Original Plaintiff)

Versus

M/s State Trading Corporation of India Ltd.,
a Company registered under Companies
Act of 1956 and having its registered Office
at Jawahar Vyapar Bhavan, Tolstoy Marg,
New Delhi 110 001 and having Branch
Office on 6/7th floors, Air India Building,
Nariman Point, Mumbai-400 021,
And presently having its office at B-201,
2nd floor, Marathon Innova Nextgen,
Opp. Peninsula Park, Ganpatrao Kadam Marg,
Lower Parel (W), Mumbai - 400013

...Respondent
(Ors. Defendants)

Mr. Anil Singh, Senior Advocate Addl. Solicitor General of India a/w Mr. Dhaval Shethia, Mr. Adarsh Vyas, Ms. Jyoti Dhanure, Ms. Apurva C. Gudewar, Ms. Aditya Kawad i/b D.G. Dhanure for the Applicant in CRA/835/2014, CRA/308/2011 and for the Respondent in CRA/929/2014.

Mr. Prathamesh Bhargude a/w. Mr. Dhanvanti Kharva & Ms. Sonia i/b. Mr. Akash Shah for the Applicant in CRA/929/2014.

Mr. Ravinder Singh Sehgal, Respondent No.1 in person, present in CRA/308/2011.

CORAM : M. M. SATHAYE, J.

RESERVED ON : 1st OCTOBER 2025

PRONOUNCED ON : 28th NOVEMBER 2025

JUDGMENT:

1. These Civil Revision Applications raise identical questions of law in respect of same lessee – State Trading Corporation of India Ltd. ('STC' for short) involving different lessors/landlords and therefore are being disposed of together.

2. The Civil Revision Application No. 308 of 2011 is filed by STC challenging the impugned judgment and order dated 11/01/2011 passed in the Appeal No. 177 of 2010 and Cross objection No. 28 of 2010 by the Appellate Bench of Small Causes Court at Mumbai, thereby dismissing both the appeal and the cross-objections, thereby confirming the judgment and order dated 08/02/2010 passed in Mesne Profit Application No. 1 of 2006 filed by the Ravindra Singh Indersingh Sehgal and others directing the STC to pay the *mesne profit* in respect of the suit premises @ Rs.90/- per sq.ft per month (p.sq.ft.p.m.) with effect from 01/01/2002 until the receipt of possession alongwith interest @ 6% per annum. Thus, the STC is before this Court challenging the concurrent findings of facts and law. The Suit premises involved is office no. 607, admeasuring 275 sq.ft. on 6th Floor of Maker Chamber No. IV, Nariman Point, Mumbai.

3. The Civil Revision Application No. 835 of 2014 is filed by the STC challenging the judgment and order dated 07/05/2014 passed in Appeal No. 119 of 2013 by the Appellate Bench of Small Causes Court at Mumbai, modifying the order passed in Mesne Profit Application no. 49 of 2010 dated

14/12/2012 by the Small Causes Court at Mumbai, reducing mesne profits from Rs.150/- p.sq.ft.p.m. to Rs. 100/- p.sq.ft.p.m. alongwith interest @ 6% per month from 01/10/2003 to 31/10/2010. The suit premises involved in this case is office no 601, admeasuring 1000 sq.ft on the 6th floor of the same building. Same impugned order is challenged by lessor / landlady by filing Civil Revision Application No. 929 of 2014 seeking mesne profit at enhanced rate as granted by the Trial Court. Thus, CRA/835/2014 and CRA/929/2014 are arising out of the same impugned judgment and order.

4. In both matters, the decree passed in favour of landlord/lessor granting eviction of STC has attained finality upto the Hon'ble Supreme Court and there is no dispute about it. There is also no dispute that STC has handed over the possession of the suit premises to the respective landlord/lessor, on 05.10.2011 to Ravinder Singh Indersingh Sehgal and on 08.11.2019 to Godavaridevi Agrawal.

5. The controversy involved is in narrow compass which is revolving around the interpretation of the Clause 15 of the lease-deed involved. The STC was inducted in the suit premises under lease-deed executed with respective landlords containing same clause 15, which is reproduced and considered in the paragraphs to follow.

SUBMISSIONS

6. Senior Advocate Mr. Anil Singh appearing for the STC made following submissions.

6/1. That the clause 15 operating between the parties is not challenged by any landlord / lessor and the same is binding.

6/2. That it is a basic rule of interpretation that every word in the clause has to be given meaning. That entire clause 15 will have to be read together.

6/3. That the Court cannot rewrite the contract between the parties, who are governed by a pure commercial contract and as such the clause will have to be strictly interpreted.

6/4. That only interpretation possible is that Rs.12/- p.sq.ft.p.m. can be taken as an upper limit and no amount beyond such agreed compensation can be granted.

6/5. Relying on the various documents annexed to the IA/11935/2025 in CRA/308/2011, IA/11598/2025 in CRA/835/2014 and IA/11620/2025 in CRA/929/2014, he submitted that after judgment was passed learned judge of this Court in **STC vs. Neelam Choudhary** (CRA/111/2019, Order dated 16.10.2024), the corporation has found out various important documents which are annexed to the Applications which show that STC was not making profit and was providing services to the State Government, as per directions of the Central Government. He submitted that this fact has direct bearing on the aspect of *mesne profit* and must be considered by this Court.

6/6. That various other landlords had filed eviction proceedings and *mesne profit* applications which have resulted into various rates being granted in different proceedings. That the word '*mesne profit*' is not included in the clause 15 rightly as a higher rate than the rate on which the property was leased (Rs.7/-, Rs.8/- and Rs.9/- p.sq. ft.p.m)

has been agreed.

6/7. He relied upon section 74 of the Indian Contract Act, 1872 to submit that nothing more than contractually agreed rate can be given to the lessor/ landlord.

6/6. He relied upon the order of the Hon'ble Supreme Court which was passed in Special Leave Petition (SLP) (Civil) Diary No. 13990 of 2025 dated 08/09/2025 where the Hon'ble Supreme Court has clarified that it shall be open for STC to raise all the legal contention available to it in law in any other similar matters. He submits that this order was passed in SLP challenging the order of learned Single Judge of this Court in the **Review Petition No. 1/2025 in STC vs. Neelam Choudhary**. He submitted that therefore the STC has liberty to agitate all legal issues including the aspect of availability of documents recently found, which are produced alongwith Interim Applications. He submitted that in view of the Supreme Court order, the view taken by learned single Judge in **STC vs. Neelam Choudhary**, is not applicable to any other case. He relied on following judgments in support of his submission :

(a) **Venkataraman Krishnamurthy and Another vs. Lodha Crown Buildmart Private Limited [(2024) 4 SCC 230]**.

(b) **Life Insurance Corporation of India and Another Vs. Dharam Vir Anand [(1998) 7 SCC 348]**.

(c) **Rajasthan State Industrial Development and Investment Corporation and Another vs. Diamond & Gem Development Corporation Limited and Another [(2013) 5 SCC 470]**.

(d) **Humayun Dhanrajgir & Ors. vs. Ezra Aboody [(2008) SCC OnLine Bom 420]**.

(e) **Kailash Nath Associates vs. Delhi Development Authority & Anr. [(2015) 4 SCC 136].**

(f) **Lucy Kochuvareed Vs. P. Mariappa Gounder And Others. [(1979) 3 SCC 150].**

(g) **Hindustan Steel (Private) Ltd. Vs. Shrimati Usha Rani Gupta And Another. [1967 SCC OnLine Del 70].**

7. On the other hand, Mr. Bhargude learned counsel for Respondent No. 1 in CRA/835/2014 and Petitioner in CRA/929/2014 (Godavari Devi Agrawal), submitted as under.

7/1. That the Interim Applications filed by STC for relying on additional documents, are nothing but Review Petition filed earlier before the learned Single Judge, which are already considered and the review has been rejected.

7/2. That the order of the Hon'ble Supreme Court granting permission to STC cannot be interpreted to mean that STC is permitted to re-argue the entire matter. That even the Hon'ble Supreme Court has clarified that STC can raise 'all legal contentions available in law' and therefore contentions which are not available in law cannot be raised.

7/3. That interpretation of Clause 15 of the Lease Deed is already concluded in the earlier judgment of this Court in **STC Vs. Neelam Choudhary** and no fresh arguments can be entertained about interpretation.

7/4. That the order passed in **STC Vs. Neelam Choudhary** amounts to

constructive *res judicata* both for Interim Applications for additional documents and for the Revision Application. That it is necessary that the adjudication is consistent about Clause 15.

7/5. That the provisions of Order XLI Rule 27 of Civil Procedure Code, 1908 ('CPC' for short) relied upon by STC cannot be applied because the said provisions apply to appeal under section 96 of CPC and not to revision under Section 115 of the CPC.

7/6. That the Appellate Bench was not justified in reducing the rate from Rs. 150/- p.sq.ft.p.m. to Rs. 100/- p.sq.ft.p.m.

7/7. That the manner in which STC has attempted to delay the proceedings right from eviction proceedings and thereafter present proceedings, the conduct is not befitting of a corporation who claims to work under direction of Central Government.

7/8. That the landlady is about 80 years old as on today and therefore sought dismissal of the revision application filed by STC and prayed for allowing her Revision Application granting mesne profits @Rs. 150/- p.sq.ft.p.m. He relied on various judgments in support of this case, including the following:

(i) **K. B. Lahoti & Company and Others Vs. Champalal Vithuram Jajoo (deceased) by his L.Rs. Chandrakant Champalal Jajoo and Others [2020(5) Mh.L.J. 196].**

(ii) **State Trading Corporation of India Ltd. vs. The Commercial Tax Officer and Others [AIR 1963 SC 1811].**

(iii) **Martin And Harris Private Limited And Another Vs. Rajendra**

Mehta And Others [(2022) 8 SCC 527].

8. Mr. Sehgal appearing in person as Respondent in CRA No. 308 of 2011 submitted as under.

8/1. That the conduct of STC in obstructing the execution filed by landlord for recovery of possession, is duly recorded in the judgment of the Trial Court, and it must be taken note of.

8/2. That the words '*mesne profits*' are missing in Clause 15 and it is without prejudice to other rights and remedies.

8/3. That the rate of Rs. 12 p.sq.ft.p.m. stated in the Clause 15 will not make any difference and *mesne profits* will have to be considered independently. That wrongful possession is the essence of claim for *mesne profits*.

8/4. That admittedly STC has not led any independent evidence about *mesne profits*.

8/5. That under the guise of revision under Section 115 of CPC, STC is trying to argue the case like an appeal, which cannot be permitted.

8/6. That STC has been held as not a Government of India undertaking, as per the judgment in **AIR 1963 Supreme Court 1811**.

8/7. That no interference is required in the concurrent findings of fact in the limited jurisdiction under Section 115 of CPC and re-appreciation of evidence is not permitted.

8/8. That once a learned Single Judge of this court has taken a view interpreting Clause 15 in **STC Vs. Neelam Choudhary**, there is no

scope for further interference.

8/9. He prayed for exemplary costs to be imposed upon STC. He relied upon various judgments / case law in support of his submissions including the following:

(i) **State Trading Corporation of India Ltd. vs. The Commercial Tax Officer and Others [AIR 1963 SC 1811]**

(ii) **Masjid Kacha Tank, Nahan Vs. Tuffail Mohammed [(1991)Supp(2) SCC 270].**

9. Learned counsel for both sides have urged that if this Court does not agree with the interpretation of Clause 15 as made in **STC Vs. Neelam Choudhary**, then the matter may be referred to the Division Bench under a reference.

REASONS AND CONCLUSIONS

10. I have considered the rival submissions and perused the record.

11. Since the Hon'ble Supreme Court has clarified in order dated 08/09/2025, that STC can raise all legal contentions available to it in any other similar matters, learned Senior Advocate for STC has argued the present similar matters all over again, especially about interpretation of Clause 15. Since the arguments are raised under clarification granted by the Hon'ble Supreme Court, this Court is respectfully bound to consider the same.

12. At the outset, it is necessary to note that fundamentally, 'compensation for loss or damage', 'penalty', and 'mesne profits' are different concepts in

their origin, legal nature and purpose, though in a given case or under peculiar set of facts, their paths may cross each-other. 'Compensation for loss or damage' is provided under section 73 the Indian Contract Act, 1872. 'Penalty' is provided under section 74 thereof. 'Mesne profits' is provided under section 2(12) of the CPC. For ready reference, the aforesaid provisions are re-iterated below:-

"73. Compensation for loss or damage caused by breach of contract - When a contract has been broken, the party who suffers by such breach is entitled to receive, from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract, to be likely to result from the breach of it.

Such compensation is not to be given for any remote and indirect loss or damage sustained by reason of the breach.

Compensation for failure to discharge obligation resembling those created by contract - When an obligation resembling those created by contract has been incurred and has not been discharged, any person injured by the failure to discharge it is entitled to receive the same compensation from the party in default, as if such person had contracted to discharge it and had broken his contract.

Explanation - In estimating the loss or damage arising from a breach of contract, the means which existed of remedying the inconvenience caused by the non-performance of the contract must be taken into account."

"74. Compensation for breach of contract where penalty stipulated for - When a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach, or if the contract contains any other stipulation by way of penalty, the party complaining of the breach is entitled, whether or not actual damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named or, as the case may be, the penalty stipulated for.

Explanation.- A stipulation for increased interest from the date of default may be a stipulation by way of penalty.

Exception.- When any person enters into any bail-bond, recognizance or other instrument of the same nature, or under the provisions of any law, or under the orders of the [Central Government] or of any [State Government], gives any bond for the performance of any public duty or act in which the public are interested, he shall be liable, upon breach of the condition of any such instrument, to pay the whole sum mentioned therein.

Explanation.- A person who enters into a contract with Government does not necessarily thereby undertake any public duty, or promise to do an act in which the public are interested."

"2(12) "mesne profits" of property means those profits which the person in wrongful possession of such property actually received or might with ordinary diligence have received therefrom, together with interest on such profits, but shall not include profits due to improvements made by the person in wrongful possession."

[emphasis supplied]

13. Therefore, compensation for loss or damage is an outcome of breach of contract, being entitlement of a party suffering breach. Penalty is an entitlement of a party complaining breach, whether or not actual damage or loss is proved. Penalty includes stipulation of increased interest. *Mesne profits* necessarily arise from 'wrongful possession' and it has no essential connection with breach of contract. Mesne Profits are to be assessed on the basis of 'profits actually received or might have received with ordinary diligence, with interest, from person in wrongful possession'. Having understood thus, now I proceed to apply above legal principles to the facts of the present case.

14. The said Clause No. 15 is not challenged by either party including STC and therefore it is binding on STC. Let us now consider the Clause 15 by which parties are governed, which is reproduced below :

"15. If the Lessee shall punctually pay the amounts payable by the Lessee to the Lessor under the Lease and if the Lessee shall have duly

performed the obligation on the part of the lessee to be performed within 6 months prior to the expiry of the period of 9 years and nine months of the said Lease the Lessee shall have option to renew the Lease a further period of 5 years six months but on such renewal, the rental payable by the Lessee shall be calculated at the rate of 8 per sq. foot per month (such rent also being net rent as herein provided) and on the other terms and conditions excluding the payment of deposit as herein contained. The Lessee in that case shall not be under any obligation to make any deposit and/or advance rent for the renewal period. The Renewal Lease shall also contain provisions for the renewal of the lease for further period of 4 years and 9 nine months by the Lessee on the same terms and conditions as herein contained but rent in that event for the further period of 4 years and 9 months shall be calculated at the rate of Rs.9 per sq. foot per month and such lease shall not contain the provisions for renewal the intension of the parties being that the lessee shall have a right to occupy the said premises for total of 20 years from the date of possession. If the Lessee shall not vacate the said premises and after the period of 20 years the Lessor shall without prejudice to his other rights and remedies, and charges, damages and/or compensation from the Lessee for such unauthorised use at the rate of 12/- per square foot per month and/or outgoings as set out in clause 5(b) and 5(c) and the Lessee shall pay the Lessor."

[emphasis supplied]

15. Plain reading of the said clause indicates that if STC being lessee does not vacate the premises after the period of 20 years, then STC shall pay to the lessor/landlord an amount @ Rs.12/- p.sq.ft.p.m. This is however, without prejudice to the lessor's other rights and remedies and charges, damages and/or compensation from the lessee/STC for such unauthorized use. First rent agreed was Rs. 7/- p.sq.ft.p.m. The said Clause contemplated about renewal of lease for a particular period of time and consecutive renewal and consequent agreed increase in rent from Rs.7/- p.sq.ft.p.m. to Rs.8/- p.sq.ft.p.m. and thereafter to Rs.9/- p.sq.ft.p.m. It also provided that STC can not occupy the premises after maximum permissible period of 20 years from the date of possession. It is not in dispute that the maximum period provided - 20 years have already expired and thereafter the eviction proceedings have culminated in favour of the lessor/landlord upto the Hon'ble Supreme Court.

16. From the very reading of the clause as explained above, a sum is named for unauthorized occupation and therefore it is clearly 'by way of penalty' in my opinion. Section 74 of the Indian Contract Act provides that whether or not actual damages or loss is proved, the sum named is payable in case of breach. I find Clause 15 squarely falling under Section 74 of the Indian Contract Act.

17. The clause itself contemplates that the amount @ Rs.12/- p.sq.ft.p.m. is payable 'without prejudice to the lessors' other rights and remedies and charges, damages and/or compensation from the lessee'. This is an express agreement between the parties. Therefore STC cannot be permitted to contend that the compensation payable to the lessee/landlord cannot be more than @ Rs. 12/- p.sq.ft.p.m. or that it is an upper limit. Therefore since a sum is named under contract as payable in case of breach, coupled with 'without prejudice clause', it cannot be accepted that the amount of Rs.12/- p.sq.ft.p.m. is the maximum amount payable towards compensation or damages. Such sum named is payable on breach, irrespective of proof of actual damage or loss.

18. The Learned Senior Advocate for STC has himself argued that every word in the terms of the contract has to be given meaning. If that be so, the words 'without prejudice to other rights and remedies and charges, damages and/or compensation from the lessee' will have to be given meaning and in my view, no other meaning / interpretation is possible.

19. There is one more reason for coming to such conclusion. The words '*mesne profit*' are not included in Clause 15 and therefore parties by agreement have kept *mesne profit* out of consideration under Clause 15. For this reason also, Clause 15 and sum named therein @ Rs. 12/- p.sq.ft.p.m.

cannot be held as amount of maximum *mesne profit*.

20. The interpretation suggested by learned counsel for STC of Section 74 of Contract Act that nothing more can be given to the lessor, whether or not they prove actual loss or damages, is erroneous as already indicated above.

21. For all the reasons above, I hold that said clause 15 does not limit the landlord's right to seek higher *mesne profits* and *mesne profits* are out of the purview of clause 15.

22. Let us now consider various judgments relied upon by STC. The judgment of **Venkataraman Krishnamurthy (supra)** is relied upon in support of the argument that once parties commit themselves to a written contract, the same would be binding upon them and in the event such a written contract provides for a consequence in the event of breach, and then such consequences must follow and if resisted it would be legally enforceable. There is no dispute about this proposition of law and therefore in the present case, Clause 15 as it operates between the parties is being considered.

23. The judgment of **LIC Vs. Dharam Vir Anand (supra)** is relied upon in support of the submission that in construing a particular clause of contract, it is only reasonable that words and terms used therein must be given effect to and one part of the contract cannot be made otiose by interpreting the other part of the contract. It is submitted that when parties have agreed to the terms, it is impermissible to hold that a particular term of contract was never intended to be acted upon. There is no dispute about this proposition of law also. All the terms and conditions agreed under Clause 15 operating between parties are being considered and given effect to.

24. The judgment of **Rajasthan State Industrial Development (supra)** is relied upon to contend that a party cannot claim anything more than what is covered by terms of contract and contract being a creature of agreement between the parties, it has to be interpreted by giving literal meaning unless there is some ambiguity. Of course a party cannot claim anything more than what is covered by the terms of contract. However in the present case, there is no ambiguity about what is agreed by the parties under Clause 15.

25. The judgment of **Humayun Dhanrajgir (supra)** is relied upon, to enlighten the Court about concept of *mesne profits*. Para 22 and 23 of the said judgment is really useful in the facts of the present case, which read as under :

“22. The dissection of the aforesaid definition reveals that wrongful possession of the person is the very essence for the claim for *mesne profits*.

THE MEASURE OF MESNE PROFIT:

23. The measure of ‘*Mesne profits*’ is not what the landlord had lost by not being able to get possession, but what the user of the property meant to the defendant who was in wrongful possession. In other words, the basis for determining the quantum of *mesne profit* is: what the defendant might with ordinary diligence have received from the property. The person in wrongful possession cannot be heard to say that he has not utilized the property, made no profits, no rent is being derived from the property in dispute as such not liable to pay *mesne profit*. At the same time person in wrongful possession is not liable to realize highest possible rates of rent or profit. A plain reading of the definition of *mesne profit* would leave no manner of doubt that the real test to be applied is, not what the plaintiff decree holder had lost or would have earned by letting out or using the property himself, but what the person in wrongful possession, namely, with ordinary diligence would have received from it. The wrongful possession of defendant is the very essence of a

claim for *mesne profits*. The very foundation of the defendant's liability to pay the *mesne profit* goes with actual possession of the land. That is to say, generally the person in wrongful possession and enjoyment of the immovable property is liable to pay *mesne profits*. Thus the claim for *mesne profits* is virtually the claim for damages and has to be assessed by proper exercise of judicial discretion."

[emphasis supplied]

26. It is therefore clear that the person in wrongful possession cannot be heard to say that he has not utilized the property or he has not made profits or no rent is being derived from the property and therefore not liable to pay *mesne profits*. This judgment in fact directly supports the case of the lessors/landlords. In the present case, by filing various Interim Applications, STC is claiming on the basis of various documents sought to be produced at revision stage, that STC was not making any profits and it was providing services to State Government as per directions of the Central Government. In the teeth of what is observed by this Court in ***Humayun Dhanrajgir (supra)***, reproduced above, STC cannot be heard to contend that it was not making profit. Therefore even if the above Interim Applications seeking permission to produce and rely upon additional documents are considered on merits, even then, it will not help STC, because admittedly it was in wrongful possession during the concerned period for which *mesne profits* are being assessed. In this respect, it is important to note that wrongful possession of the party is the very essence for the claim made for *mesne profits* as is asserted by this Court in the above judgment. This Court has to be alive to the scope of this Court's revisional jurisdiction, so far as the re-appreciation of evidence is concerned, as explained in ***Masjid Kacha Tank, Nahan (supra)*** by Hon'bl Supreme Court and para 29 of ***K. B. Lahoti & Company and Others (supra)*** by this Court, relying upon the judgment of the Hon'ble

Supreme Court in **Raja Lakshmi Dyeing Works vs. Rangaswamy Chettiar [(1980) 4 SCC 259]**

27. The next judgment relied upon by STC in the case of **Kailash Nath Associates Vs. Delhi Development Authority (supra)** in support of the argument that where sum is named in a contract as liquidated damages or penalties, the party complaining breach cannot receive more than such liquidated amount which is the upper limit. Since it is already held that *mesne profits* are out of purview of clause 15, the said judgment will not advance the case of STC.

28. The judgment of **Lucy Kochuvareed Vs. P. Mariappa (supra)** is referred in support of the arguments that *mesne profit* can be awarded only for 3 years. It is not argued that the mesne profit applications are filed belatedly. No details are pointed out for such submission.

29. Lastly, the judgment of **Hindustan Steel (Private) Ltd. Vs. Shrimati Usha Rani Gupta (supra)** is relied upon in support of the argument that only double amount was given by the court. In the present case there is no such issue involved about double-amount payment and therefore it is not helpful to STC.

30. In **STC Vs. Commercial Tax Officer (supra)**, the 9 Judges Bench of the Hon'ble Supreme Court was considering whether STC was a department of Government and in Para 89(2) of the said judgment, after considering various aspects about STC, the Hon'ble Supreme Court has authoritatively concluded that STC is not a department or organ of the Government of India. In that view of the matter, the argument of STC that it was not earning profit and working under directions of the Government and

therefore has not earned any profits, is rejected.

31. It must be noted that my learned brother - Single Judge of this Court has considered identically placed parties in the judgment of **STC Vs. Neelam Choudhary**. The Learned Single Judge has considered same Clause 15 and has held that the compensation of Rs. 12/- p.sq.ft.p.m. cannot be the maximum amount for *mesne profits*. The Learned Single Judge has considered the words 'without prejudice to other rights and remedies and charges damages and or compensation from lessee' and has held that the said clause does not affect the right of the Lessor – Landlord to claim higher amount by way of *mesne profits*. The Learned Single Judge has also held that the amount specified in the said clause is not towards *mesne profits*. This judgment was admittedly challenged by STC in the Hon'ble Supreme Court, and admittedly the challenge has failed and the Special Leave to Appeal (C) No. 31033 of 2024 has been dismissed on 15.01.2025. It is also admitted position that STC had filed Review Petition 1 of 2025 in this Court seeking review of the order of the Single Judge on the basis of various agreements and documents relied upon by the STC. Admittedly by order dated 12.03.2025, the review has been rejected. It is further admitted that the rejection of review was again challenged by STC in Hon'ble Supreme Court by filing SLP Civil Diary No. 13990 of 2025, which has been dismissed on 08.09.2025. Not only this but the review filed by the STC of the order of the Supreme Court dated 15.01.2025 arising out of main order of the learned Single Judge, has also been dismissed on 23.09.2025. Therefore it is clear that all efforts of STC to challenge the order of the learned Single Judge in **STC Vs. Neelam Choudhary** have failed.

32. I agree with the view taken by the Learned Single Judge in the case of

STC Vs. Neelam Choudhary, albeit for my own independent reasons, indicated above.

33. In **Martin And Harris Private Limited And Another (supra)**, the Hon'ble Supreme Court has held that basis of determination of *mesne profit* depends upon facts and circumstances of each case, considering the place where the property is situated including location and nature of premises. There is no dispute about the physical location of the suit premises. It is situated at Nariman Point, Mumbai and the whole building is used for various commercial activities. Considering the relevant period for which the *mesne profit* are being assessed, the commercial worth of the suit premises was definitely such as to justify the rate of Rs.150/- p.sq.ft.p.m. The reason given by the Appellate Court (in Godavaridevi's case) for its reduction is based on the possible fluctuation of rates. However, considering that in the present case the concerned period is from 01/10/2003 to 31/10/2010, and comparable period from September 2003 to December 2007 is already considered by this Court in **STC Vs. Neelam Choudhary** (supra), granting Rs.150/- p.sq.ft.p.m., in order to maintain judicial discipline and consistency, it is necessary to interfere in the impugned Order to the extent of bringing it at par. Accordingly, the amount granted by the Trial Court in Godavari devi's case is found to be reasonable. Therefore the Petitioner in CRA/929/2014 (Godavaridevi Agrawal) is entitled to compensation of Rs.150/- p.sq.ft.p.m. and CRA/929/2014 must succeed to that extent.

34. In the result, **the revision applications are disposed of** by passing following order :

- (a) CRA/308/2011 and CRA/835/2014 filed by STC are dismissed.
No order as to costs.

(b) CRA/929/2014 is allowed, setting aside the judgment and order dated 07/05/2014 passed in Appeal No. 119 of 2013 by the Appellate Bench of Small Causes Court at Mumbai, thereby confirming the order passed in Mesne Profit Application no. 49 of 2010 dated 14/12/2012 by the Small Causes Court at Mumbai.

(c) Respondents in CRA No. 308/2011 and 835/2014 are permitted to withdraw the amounts deposited by STC in this Court or Small Causes Court, as the case may be, with accrued interest, if any. This withdrawal will be subject to final adjustment that may be arrived at in pending Execution Applications for recovery of *mesne profits*.

(d) In view of disposal of Civil Revision Applications all the pending interim / civil applications are also disposed of in above terms.

35. At this stage, learned counsel for the STC prays for continuation of the interim protection. Considering the facts and circumstances narrated above and the fact that the decree of eviction has attained finality long ago, the request for continuation of interim relief is rejected.

36. All concerned to act on duly authenticated or digitally signed copy of this order.

(M. M. SATHAYE, J.)