
(1987) 02 P&H CK 0003
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 570 of 1987

Jai Kumar Jain

APPELLANT

Vs

Babu Ram and Others

RESPONDENT

Date of Decision : 18-02-1987

Acts Referred:

Citation : (1987) 1 RCR(Rent) 427

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Advocate : J.N. Kaushal and Mr. Vijay Jhanji, for the Appellant; R.L. Sarin, for the Respondent

Final Decision : Allowed

Judgement

J.V. Gupta, J.—Eviction order has been passed ejecting the revision Petitioner from the demised premises consisting of the shop-cum- flat, by the Appellate Authority, interalia on the ground of subletting. Admittedly, the premises were let out to the tenant-Petitioner Jai Kumar Jain for his residence on the first floor (residential portion) and for running his business on the ground floor. It is also not disputed that after the tenancy, the tenant constructed his own house and shifted his residence there. At present, third persons are occupying the residential portion of the demised premises. According to the tenant, they are licensees and not the sub-tenants as they are the persons employed by the tenant for his business and on that account, they have been allowed to stay in the residential portion of the building. The appellate Authority has found that the said persons being in exclusive possession of the different portions of the first floor of the premises, the premises would be deemed to have been sublet by the tenant.

2. According to the learned Counsel for the Petitioner, the possession of the said persons could not be said to be that of the sub-tenants as no rent is being paid by them to the tenant, rather they have been allowed to occupy the said portion because they are in the employment of the tenant. Reliance in this behalf was

placed by the learned Counsel on B. M. Lall v. Dunlop Rubber Co A. I. R. 1968 S. C. 178. The said case is clearly distinguishable. The question involved therein was whether the possession of the occupier was as a tenant or as a licensee. In the present case, it is the tenant who has further allowed the persons to occupy the residential portion of the demised premises whereas, admittedly, it was let out to him for his residence. On what terms and conditions they have been allowed to occupy the premises, is an inter se arrangement between them and the tenant. The question of their being the licensees as such does not arise. Thus, from the facts found by the Appellate Authority, it is a clear case of subletting and the eviction order has been rightly passed. I do not find any impropriety or illegality in the said finding as to be interfered with in this revision petition. Consequently, this revision petition fails and is dismissed with no order as to costs.

3. The tenant undertakes that he will vacate the premises and hand over their vacant possession. On this condition, he is allowed three months' time to vacate the premises; provided the rent is regularly paid every month. However, the tenant wants to approach the Supreme Court by way of special leave to appeal for which no permission of this Court is required.