
(1988) 01 P&H CK 0100

In the Punjab And Haryana At Chandigarh

Case No : C.R. No. 1877 of 1987 and C.M. N. 3022-CII of 1987

Prem Chand

APPELLANT

Vs

Lal Chand and Others

RESPONDENT

Date of Decision : 19-01-1988

Acts Referred:

Citation : (1988) 01 P&H CK 0100

Hon'ble Judges : G.C. Mittal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

G.C. Mittal, J.—Ejectment petition was filed against the tenant on the ground that he had sublet the premises to his son. The tenant died when the proceedings were pending before the Rent Controller and the son of the tenant continued the proceedings as the next heir on the plea that he had inherited the tenancy. The Rent Controller passed order of eviction against the son of the tenant on the reasoning that sub-letting to son had been established and, therefore, even if the sub tenant had become the tenant later on it did not matter. The alleged sub-tenant, who became the tenant in view of the death of the tenant, went up in appeal and the Appellate Authority held that in view of the Supreme Court judgment in Gian Devi Anand Vs. Jeevan Kumar and Others, , The tenancy was heritable therefore, the son of the tenant who was alleged to be the sub-tenant, became a direct tenant. Since he became a direct tenant, it was held that he could not be evicted from the premises. As a result he allowed the appeal and set aside the order of eviction passed by the Rent Controller. This is landlord's revision.

2. Shri R.L. Sarin vehemently contends that once a ground of eviction is established in favour of the landlord no supervening facts can take away that right of the landlord. This broad based argument, to my mind, is not applicable on the peculiar facts of this case. The alleged sub-tenant has become a tenant in his own right during the pendency of the proceedings. Now he cannot be held to

be a sub-tenant. Otherwise the rule laid down by the Supreme Court in Gian Devi's case (supra) would be meaningless. Accordingly, I am of the view that the decision of the Appellate Authority is perfectly just and legal and this revision is dismissed.