

Narain and Others

Vs

Om Prakash Gupta

Civil Appeal No. 5027 of 1985

(B. C. Ray, Sabyasachi Mukharji JJ)

16.04.1987

JUDGMENT

SABYASACHI MUKHARJI, J. -

1. This appeal arises out of judgment and order of the High Court of Punjab and Haryana. The facts are short and the lapse of time has solved the question posed in this appeal. The original tenancy started about 50 years ago by the predecessors-in-interest of the present appellant and the original landlords were also the predecessors-in-interest of the present respondent. The suit for eviction was decreed by the trial court and upheld ultimately by the High Court on the ground that the premises in question having been let out for commercial purposes were not heritable. As such the appellants had no right to enjoy the possession of the premises in question. The view that the commercial tenancies are heritable has been upheld by the Constitution Bench decision of this Court in the case of Gian Devi Anand v. Jeevan Kumar ((1985) 2 SCC 683). In that view of the matter the ground upon which the appellants eviction was upheld cannot be sustained.
2. The impugned order and the order of the learned District Judge are therefore set aside and so also that of the learned trial Judge. The appellants being the heirs as mentioned in the Schedule to Haryana Urban Control of Rent (Eviction) Act, 1973 and read with the relevant definition of Section 2(h) of the said Act were entitled to the protection. There is however one aspect which may be borne in mind. The rent originally fixed and/or arranged between the parties in 1962 was Rs. 3 per month. This is unfair now.
3. We direct that the rent of Rs. 75 per month should be paid from May 1, 1987. It is asserted on behalf of the respondent-landlord that landlord required the premises also on ground of his bona fide need. That point in respect of commercial purposes is not open to him. In any case this is not an issue in the present proceedings. If the landlord wants to take any appropriate proceedings on the ground of bona fide need, this order will not prejudice his rights. With these observations, the appeal is disposed of with no order as to costs.

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