

SUPREME COURT OF INDIA

Hemchand

Vs.

Hari Kishan Rohtagi

C.A.Nos.9116-17 of 1996

(S. S. M. Quadri and S. N. Phukan JJ.)

25.09.2001

ORDER

1. The dissatisfied landlord is in appeal by special leave against the judgment and order of the High Court of Delhi in Second Appeal Nos.112-113/1979 dated February 23, 1996.

2. The appellants filed Suit No. E-384/70 in the Court of Shri.M.A.Khan. VI Additional Rent Controller, Delhi seeking eviction of respondent Nos.1 to 5 on three grounds; however, the only ground which survives is provided under clause (b) of sub-section (1) of Section 14 of the Delhi Rent Control Act,1958 (for short 'the Act'). The allegation of the appellants was that respondent no. 5 was inducted as sub-tenant without the written consent of the appellants and therefore respondents nos.1 to 4 who are the tenants should be evicted from the said premises. The respondents took the plea that the consent was obtained to sublet the premises.

3. The learned Rent Controller, the Rent Tribunal and the High Court found that subletting in favour of the 5th respondent was without the consent of the appellants and ordered his eviction. However, the grievance of the appellants is that the other six sub-tenants are occupying various portions of the tenanted premises and therefore the courts ought to have ordered eviction of respondent nos.1 to 4 instead of confining the order of eviction to respondent no.5, one sub-tenant only. It appears from the pleadings that in the eviction petition the landlord stated that out of 8 sub-tenants, six sub-tenants were inducted into possession of different portions with his consent. If that be so, neither the tenants nor the sub-tenants could have been ordered to be evicted merely because one of the sub-tenants was inducted into possession of a portion of tenanted premises without the consent of the landlord. So far as respondent nos.1 to 4 as well as the other sub-tenants are concerned there can be no legitimate complaint of sub-letting because even according to the petition of the appellants they were inducted as the sub-tenants with his consent. This is not a fit case to order eviction of respondents 1 to 4 under Section 14 (1) (b) of the Act. We therefore find no illegality in the order of the High Court warranting our interference. The appeals are therefore dismissed, but in the circumstances of the case, without costs.

Appeal dismissed.