

Ram Prakash

v.

Dev Raj

(Supreme Court Of India)

HON'BLE DR. JUSTICE DALVEER BHANDARI HON'BLE MR. JUSTICE  
DIPAK MISRA

Civil Appeal No. 7982 Of 2011 | 22-03-2012

1. The appellant herein is the owner and landlord of the property in Ambala City who had let out a portion of his house to the respondent-tenant at the rate of Rs. 250/- per month.

2. The appellant-landlord filed an Eviction Petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (for short 'the 1973 Act') for ejection of the respondent-tenant from a portion of House No. 2286B/2, situated at Nahan House Ambala City Haryana on the ground of bona fide need, non-payment of rent from 1.8.1987 to 30.11.1987 and material alteration of the demised premises. The Rent Controller dismissed the eviction petition stating that the demised premises is an independent unit constructed for non-residential purposes.

3. Against the aforesaid order of the Rent Controller, the appellant-landlord preferred an appeal before the First Appellate Court which reversed the finding of the Rent Controller holding that the disputed premises is part and parcel of the residential building and as no permission of the Rent Controller was obtained in this case by the landlord the disputed premises shall be construed to be a residential building only. It was further held that the appellant-landlord having a bona fide need, was entitled to evict the respondent-tenant.

4. Aggrieved by the order of the First Appellate Court the respondent-tenant preferred Civil Revision before the High Court of Punjab and Haryana at Chandigarh under Section 15(6) of the 1973 Act. The High Court vide its judgment and order dated 24th September, 2010 set aside the order of the Appellate Authority and restored the order of the Rent Controller. The

appellant-landlord has come before this Court in appeal by way of special leave being aggrieved by the aforesaid order of the High Court.

5. We have heard the learned counsel for the parties and gone through the documents placed on record and the pleadings of the parties.

6. Learned counsel for the appellant-landlord has drawn our attention to Section 11 of the 1973 Act which reads as under:-

"Section 11. Conversion of a residential building into a non-residential building  
No person shall convert a residential building into a non-residential building except with the permission in writing of the Controller."

7. In view of Section 11 of the 1973 Act, the High Court erred in holding that the disputed premises was non-residential and that a non-residential premises could be evicted only on that ground. Hence, the impugned judgment cannot be sustained and is, accordingly, set aside and the order of the First Appellate Court is restored.

8. However, in the facts and circumstances of this case, we deem it appropriate to grant one year's time to the respondent-tenant i.e., Dev Raj to vacate the premises subject to his filing usual undertaking in this Registry within four weeks from today.

9. The appeal is allowed in the aforesaid terms.