

NAGPUR HIGH COURT

Tansukhdas Chhaganlal

Vs

Shambai

Misc. Petn. No. 99 of 1953. decided on 13.8.1953

(Sinha, C.J. and Bhutt, J.)

10.07.1952. 13.08.1953

JUDGMENT

Sinha, C.J.

1. This is a tenant's petition under Article 226 of the Constitution impugning the concurrent orders of the Rent Control authorities granting permission to the landlord (non-applicant No. 1) to terminate the tenancy.
2. It appears that the petitioner had been a tenant of respondent no. 1 for a number of years in respect of the premises in question. Subsequently he allowed several other persons to occupy the premises to run a business as a partnership, in which the petitioner also appears to have been a partner. The landlord commenced proceedings under the Rent Control Order for permission to terminate the tenancy on the ground that the tenant-petitioner had sublet the premises to several other persons without the landlord's permission.
3. Both the Rent Controller and the Appellate Authority have agreed in holding that the petitioner has allowed third parties to come into the premises and that therefore the tenant was liable to ejection on the ground of unauthorized subletting.
4. In this Court the only question for determination is whether there is any mistake apparent on the face of the record in so far as the Courts below have treated the third parties in partnership with the petitioner as a distinct legal entity for the petitioner himself. There is no doubt that in the first instance the petitioner alone was the tenant of the premises. If he allowed other persons to enter into partnership along with himself to carry on business in those premises he certainly brought himself within the purview of the law prohibiting subletting except with the permission of the landlord. The partnership which the petitioner entered into along with the third parties was clearly a personality in law distinct from that of the petitioner himself.
5. Our attention was drawn to the decision of this Court in - '*Rajniklal and Co. v. Vithal Pandurang*', but that was a case where a single person was carrying on business in the name of a firm, which was treated as a mere 'alias' for the person

¹ AIR 1952 Nag 312

himself. It was in those circumstances that this Court held that the firm was not a legal entity separate from the person himself. But in the instant case it is clear that the partnership as such was never the tenant of the landlord in respect of the premises in question. It must therefore be held that the Courts below have taken the right view of the situation. The application must therefore be dismissed with costs. Hearing fee Rs. 50/-.

Application dismissed.