

Rai Chand Jain vs Miss Chandra Kanta Khosla on 15 November, 1990

Equivalent citations: 1991 AIR 744, 1990 SCR SUPL. (3) 91, 1991 (1) SCC 422, AIR 1991 SUPREME COURT 744, 1991 HRR 1, (1990) 4 JT 638 (SC), 1990 (4) JT 638, (1991) 1 RENCJ 5, (1991) 1 RENC R 128, (1991) 1 RENTLR 76, (1991) 1 CURLJ(CCR) 229

Author: B.C. Ray

Bench: B.C. Ray, R.M. Sahai

PETITIONER:

RAI CHAND JAIN

Vs.

RESPONDENT:

MISS CHANDRA KANTA KHOSLA

DATE OF JUDGMENT 15/11/1990

BENCH:

RAY, B.C. (J)

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RAY, B.C. (J)

SAHAI, R.M. (J)

CITATION:

1991 AIR 744

1990 SCR Supl. (3) 91

1991 SCC (1) 422

JT 1990 (4) 638

1990 SCALE (2) 1131

ACT:

East Punjab Urban Rent Restrictions Act, 1949--Sections 11 and 15--High Court--Interference with findings of fact--Whether permissible.

HEADNOTE:

Respondent, land-lady leased out the demised premises to the appellant on the basis of a rent note dated 19.5.1978 wherein it was stipulated that the demised premises were to be used for residential purpose and that the tenant-appellant shall not sublet the premises or any part thereof. The respondent filed an application for eviction of the appellant-tenant on the ground that the tenant had not paid the

rent; that he has changed the user of the premises by setting up a printing press 'Navneet Prakashan' there and further that she required the premises for her bona fide use. The appellant controverted the allegations. The trial court allowed the application holding that the demised premises were used for the purpose other than that for which it was let out and the premises were let out to the appellant and not to 'Navneet Prakashan'. However, on the question of land-lady's requirement for bona fide use, the trial court held against her.

On appeal by the tenant-appellant, the Appellate Authority reversed the findings of the trial Court and held that the premises were let out for running printing press and thus there was no change of user. Against the judgment of the appellate authority, the respondent landlady filed a revision in the High Court. The High Court reversed the order passed by the appellate authority. It held that the demised premises was let out to the appellant and not to the Navneet Prakashan and the purpose of tenancy is to use the demised premises as residence and since the appellant has used the premises for a purpose other than that for which it was let out to him, he was liable to be evicted. It further held that the respondent required the premises for bona fide use. Hence this appeal by the tenant.

Before this Court it is inter alia contended that the High Court in its revisional jurisdiction is not competent to interfere with the findings of fact arrived at by the Appellate Authority even if the findings are

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erroneous nor It can substitute its views for the view expressed by the appellate authority even if two views are possible unless the findings are perverse.

Dismissing the appeal, this Court,

HELD: The High Court in exercising its power under Section 15(5) Is within its Jurisdiction to reverse the findings of fact when the same were Improper and also illegal. [100B]

The tenant in the instant case, took the lease in his own name and the rent not was signed by him. It is also evident that he is the sole proprietary of M/s. Navneet Prakashan. In these circumstances it cannot but be held that the lease of the demised premises was given to the tenant appellant for his residence. [101D-E]

Faqir Chand v. R.R. Bhanot, [1973] 3 SCR ,154; Shalimar Tar Products Ltd. v. H.C. Sharma and Ors., [1988] 1 SCR 1023; Duli Chand (dead) by L. rs. v. Jagmender Dass, [1990] 1 SCC 169; Hari Mittal v. B.M. Sikka, AIR 1986 (Pb. and Haryana) 119; Ram Dass v. Ishwar Chander and Ors., [1988] 3 SCC 131; Vinod Kumar Arora v. Smt, Surjit Kaur, [1987] 3 SCR 552; M/s. New Garage Ltd. v. Khushwant Singh and Anr., [1951] PLR 136; Kamal Arora v. Amar Singh and Ors., [1986] SCC (Suppl.) 281; Ved Parkash v. Darshan Lal Jain, [1986] 2 SCR 90, referred to.

JUDGMENT :