

## **Dev Brat Sharma vs Dr. Jagjit Mehta on 28 August, 1990**

**Equivalent citations:** JT1990(3)SC650, (1990)98PLR637, 1990(2)SCALE419, 1990SUPP(1)SCC724, 1990(2)UJ512(SC)

**Author:** Ranganath Misra

**Bench:** Ranganath Misra, M.M. Punchhi, K. Ramaswamy

### JUDGMENT

Ranganath Misra, J.

1. This appeal by a specified landlord under the East Punjab Urban Rent Restriction Act is directed against the judgment of the Punjab and Haryana High Court by which the order of eviction passed by the Rent Controller has been set aside and the application under Section 13A of the landlord has been dismissed.

2. The premises in dispute form part and parcel of a residential house standing on Ladowali Road, Jalandhar City in Punjab State. The landlord asked for eviction on the ground that the premises were required for his use and occupation as following his retirement from Government service he wanted to set up practice as an advocate at Jalandhar and intended to put up his chambers in the premises.

3. On 28.11.1988 while special leave was granted, the matter was ordered to be placed before a 3 Judge Bench. In view of the submissions advanced at the earlier hearing, this Court directed the Rent Controller to make a report after hearing parties as to whether any sanctioned scheme was operative within Jalandhar City as envisaged by law to make the ratio of several decisions with reference to Chandigarh applicable to the present case. The Controller has reported that no such scheme exists.

4. The main thrust of the appellant's counsel's contention has been that the house is residential and the user could not be changed and the tenant could not have put up a clinic in a part of the house. We find that there has been no change of user in this case inasmuch as the tenancy was created for the purpose of locating the clinic and this distinctive feature takes the case out of the ratio emerging from some of the precedents of this Court on which reliance was placed.

5. Counsel for the appellant wanted to rely on the oral evidence but we did not think it appropriate in an appeal by special leave to allow evidence to be read. Taking the broad features of the matter available on the record, we are inclined to agree with the High Court that the landlord was not entitled to evict the tenant and the conclusion reached by the High Court is unassailable. We direct

the appeal to be dismissed but there would be no order as to costs.