

Supreme Court of India

Narain And Ors. vs Om Prakash Gupta on 16 April, 1987

Equivalent citations: AIR 1987 SC 1602, JT 1987 (2) SC 258, 1987 (1) SCALE 1253, (1987) 3 SCC 61, 1987 (1) UJ 669 SC

Author: S Mukharji

Bench: B Ray, S Mukharji

JUDGMENT Sabyasachi Mukharji, J.

1. This appeal arises out of judgment and order of the High Court of Punjab & Haryana. The facts are short and the lapse of time has solved the question posed in this appeal. The original tenancy started about 50 years ago by the predecessors-in-interest of the present appellant and the original landlords were also the predecessors-in-interest of the present respondent. The suit for eviction was decreed by the trial court and upheld ultimately by the High Court on the ground that the premises in question having been let out for commercial purposes were not heritable. As such the appellants had no right to enjoy the possession of the premises in question. The view that the commercial tenancies are heritable has been upheld by the Constitution Bench decision of this Court in the case of Gian Devi Anand v. Jivan Kumar and Ors.. . In that view of the matter the ground upon which the appellants' eviction was upheld cannot be sustained.

2. The impugned order and the order of the learned District Judge are therefore set aside and so also that of the learned trial Judge. The appellants being the heirs as mentioned in the Schedule of Haryana Urban Control of Rent (Eviction) Act, 1973 and read with the relevant definition of Section 2(h) of the said Act were entitled to the protection. There is however one aspect which may be borne in mind. The rent originally fixed and/or arranged between the parties in 1962 was Rs. 3/-per month. This is unfair now.

3. We direct that the rent of Rs. 75/- per month should be paid from 1st May, 1987. It is asserted on behalf of the respondent landlord that landlord required the premises also on ground of his bona fide need. That point in respect of commercial purposes is not open to him. In any case this is not an issue in the present proceedings. If the landlord wants to take any appropriate proceedings on the ground of bona fide need, this order will not prejudice his rights. With these observations, the appeal is disposed of with no order as to costs.