

Deepak Kumar and Others Vs Jai Narain and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Jan. 7, 1997

Acts Referred: Haryana Urban (Control of Rent and Eviction) Act, 1973 " Section 13(2)

Citation: (1998) 118 PLR 154 : (1997) 2 RCR(Rent) 399

Hon'ble Judges: V.K. Jhanji, J

Bench: Single Bench

Advocate: Arun Jain and R.K. Arora, for the Appellant; C.B. Goel and Swapan Goel, for the Respondent

Final Decision: Dismissed

Judgement

V.K. Jhanji, J.

Tenant (petitioner herein) has been ordered to be ejected on the ground of change of user.

2. Admittedly, the petitioner on taking the shop on rent started carrying on business of running a tea-stall, but later he changed the user and started

running a welding/repair workshop. For carrying on this business, petitioner installed a welding machine in the shop. The Rent Controller dismissed

the ejectment application. However, the appellate Authority on the facts proved on record found that by using the shop in question for gas-welding

work the tenant has changed the user of the shop and thus, liable to be ejected. Against the said order, the tenant has filed the present revision

petition.

3. It has been contended by the learned counsel for the petitioner that when the shop was let out to the tenant, the purpose for which it was to be

used was not specified and therefore, the appellate Authority acted illegally in exercise of its jurisdiction in ordering ejectment of the petitioner on

the ground of change of user.

3. After hearing the learned counsel for the parties, I am of the view that the matter is squarely covered by a judgment of this Court in Ghansharn

Dass v. Gurdwara Shri Guru Nanak Sat Sangh Sqbha Regd., Sonapat through Sardar Singh, Secretary of the Sabha resident of Sonapat 1983(1)

RLR 664, wherein in similar circumstances the order of ejectment was not-interfered with and it was observed "it is a matter of common

knowledge that oxygen is highly inflammable. When cylinders full of this gas are kept in a shop there are greater possibilities of their catching fire by

accident. Even original user is not specified and the shop is let out for business, that would imply that the shop is being acquired by the tenant for

carrying on a business in innocuous articles. When that user is changed in the sense that highly inflammable articles for sale are kept in the shop, it

shall have to be held that there is a change of user which disqualifies the tenant to retain the shop as a tenant.

4. Consequently, there being no merit in the revision petition the same shall stand dismissed. However, at the request of counsel, petitioner is

allowed three months" time to vacate the premises provided he deposits the arrears of rent, if any, including that of three months, within one month

from today and files an undertaking within one month that he shall hand over the vacant possession of the shop in dispute to the landlord on expiry

of three months period.