

Princess Nalini Rajya Lakshmi Devi Vs Mahesh Chander Walia and others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Aug. 7, 1985

Hon'ble Judges: J.V. Gupta, J

Bench: Single Bench

Advocate: G.R. Majithia, with Sh. Arun Sanghi, for the Appellant; M.L. Sarin, for the Respondent

Final Decision: Dismissed

Judgement

J.V. Gupta, J.

This is landlady's petition in whose favour eviction order was passed by the Rent Controller but was set aside in appeal.

2 The landlady sought the ejectment of her tenant Mahesh Chander Walia and others from the premises in dispute, inter alia, on the ground that the

same have been sublet by the tenant in favour of Modern College Governing Council, a society registered under the Societies Act. It was pleaded

that the premises were let out vide rent note Exhibit A -2 dated 4th April, 1967, on a monthly rent of Rs. 300/-. The premises were originally let

out to D. C. Walia, who died in April, 1971, leaving behind Mahesh Chander Walia and others as his legal representatives, who are the tenants at

present. It was further alleged that from the very commencement of the tenancy, the building was being used for running a College known as

Modern College for Women being managed by D. C. Walia. but for the purpose of obtaining affiliation with the University, a society known as

Modern College Governing Council, Amritsar, was constituted and got registered as a public charitable society and the control and management of

this institution passed on to this society which operated its separate accounts in various banks. According to the landlady, after forming the said

society the management and control of the College was in the hands of the said society and D. C. Walia was working as Principal under its control

and, therefore, in this manner premises were sublet to the said registered society.

3. In the written statement filed on behalf of the tenants, these allegations were controverted. It was denied that the management and control of the

College ever passed on to any society as alleged. It was specifically pleaded that during his life time D. C. Walia and after his death Mahesh

Chander Walia remained in actual possession of the demised premises and the possession was never transferred in any manner to the said society.

4. The learned Rent Controller rejected all other pleas of the landlady but on the ground of subletting he came to the conclusion that the said

society known as Modern College Governing Council was a legal entity to the possession of the premises and control of the institution had been

entrusted and resultantly the premises has been sublet to the society. On this ground alone, eviction order was passed.

5. In appeal, the learned appellate authority reversed the said findings of the Rent Controller and came to the conclusion that from the evidence

produced on the record, the said society was a sort of advisory council not being in possession of the disputed property. Rather, the possession

remained with Sh. D C Walia and after his death his son Mahesh Walia. Therefore, the question of subletting the premises to the said society did

not arise. The findings of the Rent Controller on other issues were not challenged on behalf of the landlady. Consequently, eviction order was set

aside. Dissatisfied with the same, the landlady has filed this revision in this Court.

6. The learned counsel for the petitioner contended that from the evidence on the record, it has been amply proved that it was the society

registered under the Societies Registration Act which was in control of the institution and Mahesh Chander Walia, tenant, was working as its

employee and, therefore, it was a clear case of subletting. It was contended that the society registered under the Societies Registration Act was a

legal entity and once it is proved that it was the society which is controlling the institution, then it was rightly found by the Rent Controller that the

tenant had sublet the premises to the Society which finding, according to the learned counsel, has been reversed in appeal arbitrarily on surmises

and conjectures. In support of his contention he referred to K.C. Thomas Vs. R.L. Gadeock and Another, and Shyam Sunder v. Jaswant Rai Beri

(1969) 71 P.L.R. 10 S.N.

7. After hearing the learned counsel for the parties. I do not find any merit in this petition. It is in the evidence of Pt. Kishan Chand, A.W.-6, who

appeared at attorney for the landlady that Mahesh Chander Walia was in possession of the demised premises and he was running the institution as

Principal. Even other witnesses produced by the landlady have admitted that the tenant Mahesh Chander Walia was in possession of the demised

premises. Once it is so found, then the mere fact that a society known as Modern College Governing Council was formed and registered under the

Societies Registration Act for the purpose of getting affiliation of the College with the University did not prove that the premises were sublet to the

said society. The said society may be a legal entity for a limited purpose. Even in K. C.Thontas's case (supra) relied upon by the learned counsel,

it has been held that a society registered under the Act may not be a body corporate, quite distinct from its members, yet it has got a separate

existence for many purposes. It has its own identity, personality or entity which, for all purposes it is not identical with that of the members

constituting it. In any case, as regards the facts of the present case, the tenant never occupied the premises as an employee of the said society as

contended on behalf of the landlady. He is in occupation in his own right under the rent note Exhibit A-2. The society was formed and registered

with a limited purpose. That being so, it has been rightly held by the appellate authority that the said society was a sort of advisory council not

being in possession of the disputed property. Rather, the possession remained with D. C. Walia and after his death with his son Mahesh Chander

Walia.

8. In this view of the matter, the petition fails and is dismissed with costs.