[2026] 10 S.C.R. 412 : 2026 INSC 1123

Islam Hussain & Ors.
v.
Hajari Lal & Anr.

(Civil Appeal No. 8092 of 2013)

13 October 2026

[Prashant Kumar Mishra and Shree Chandrashekhar, JJ.]

Issue for Consideration

Whether the Courts below erred in dismissing the appellants' suit for ejectment on the ground of sub-letting and recovery of arrears of rent on the ground that the respondent no.2, being the nephew of respondent no.1-tenant, was a member of the family as he was brought up since childhood by the respondent no.1, and therefore, a partnership with respondent no.2 would not amount to sub-letting; whether respondents/tenants ought to be evicted from shop B alone.

Headnotes†

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 – s.3(g) – 'family' – Who is not a member of – Appellants inducted respondent no.1 as tenant in two shops (shop A and shop B), however, the respondent no.1 entered into a partnership with respondent no.2 (his nephew)in respect of shop B and thus, sub-let the same and also committed default in payment of rent – Appellants filed suit for ejectment and recovery of arrears of rent – Dismissed by Courts below mainly on the ground that the respondent no.2, being the nephew of respondent no.1-tenant, was a member of the family as he was brought up since childhood by respondent no.1 therefore, a partnership with respondent no.2 would not amount to sub-letting – Interference with:

Held: A 'nephew' is not a member of the 'family', as defined in s.3(g) – The present is a case where, except the fact that respondent no. 2 was living with the tenant since childhood, there are no other special facts which may include a 'nephew', by process of interpretation, within the sweep of definition of 'family', as occurring in s.3(g) – Reading a 'nephew' in the definition of 'family', would amount to expanding the definition of 'family'

and if that is allowed, then it would be permitting expansion of such definition in the facts and circumstances of a particular case – If the intention of the Legislature is not to include any other family member in the definition of 'family', than the ones who are mentioned in the definition of 'family', it is not open for the Court to include any other member within the definition of 'family' – Once, it is held that a 'nephew' is not a member of the 'family', as defined in s.3(g), the other factual basis for seeking eviction of the respondent nos.1 and 2 from Shop B of the suit premises, is admitted – On facts, Shop A and Shop B were treated separately all throughout and as a matter of fact, this is the finding recorded by the Courts below also – As, the default *qua* subletting has occasioned only in respect of Shop B, respondents/tenants/sub-tenants to be evicted from Shop B alone – Impugned order set aside in part – Respondents/tenants/sub-tenants to handover vacant possession of Shop B to the appellants within six months from today subject to usual undertaking; also to clear the entire arrears of rent, if any, in relation to Shop B within one month and shall continue to pay the current rent/occupational charges in respect of Shop B till the time they vacate the subject premises; they shall also not create any third party interest in the subject tenanted premises of Shop B till the period they remain in occupation. [Paras 8-13]

Case Law Cited

K.V. Muthu v. Angamuthu Ammal **[1996] Supp. 10 SCR 188 : (1997) 2 SCC 53 – distinguished.**

List of Acts

Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972.

List of Keywords

Section 3(g) of the Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972; 'family'; Nephew of tenant not member of family; Nephew of tenant not included in 'family'; Family member; Not member of family; Not family member; Sub-letting; Partnership amounted to sub-letting; Shop sub-let; Part of tenanted premises sub-let; Suit for ejectment; Suit for recovery of arrears of rent.

Case Arising From

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8092 of 2013

From the Judgment and Order dated 11.09.2012 of the High Court of Judicature at Allahabad C.M.W.P. No. 12738 of 2004

Appearances for Parties

Advs. for the Appellant(s):
Yatindra Singh, Sr. Adv., Prakash Gautam, Manoj Kumar Tyagi, Sanjay Kumar Tyagi.

Advs. for the Respondent(s):
Jitendra Mohan Sharma, Sr. Adv., Sheo Kumar Gupta, Miss Saket Gautam, Shekhar Kumar, Amrit Keshari Nandan Pradhan, Akshat Sharma.

Judgment / Order of the Supreme Court

Order

1. This appeal arises out of the order passed by the High Court of Judicature at Allahabad on 11.09.2012 in Civil Misc Writ Petition No 12738/2004 dismissing the appellants' Writ Petition which, in turn, was preferred against the order dated 04.03.1998 passed by the Additional Judge, Small Cause Court, Varanasi dismissing appellants' suit for ejectment and recovery of arrears of rent as also the revisional order dated 17.12.2003 of Additional District Judge, Court No.1, Varanasi, dismissing appellants' J.S.C.C. Revision No. 22 of 1998.

2. Considering the nature of order we propose to pass, we are not dwelling on every minute details of the *lis* between the parties. Suffice it would be to mention that the appellants inducted the respondent no.1 as tenant in two shops *(hereinafter referred to as the "shop A" and "shop B")*, however, the respondent no.1, *Hajari Lal*, entered into a partnership with respondent no.2, *Jagarnath* (his nephew) in the year 1990 in respect of shop B and thus, sub let the same and also committed default in payment of rent whereupon, the appellants preferred the suit for ejectment on the ground of sub-letting and default in payment of rent.

3. The respondent no.1, *tenant*, admitted about partnership with defendant respondent no.2 yet, all the Courts below have dismissed the appellants' suit mainly on the ground that the respondent no.2, being the nephew of respondent no.1, is a member of the family as the respondent no.2 was brought up since childhood by the respondent no.1. Therefore, a partnership with respondent no.2 would not amount to sub-letting.

4. We have heard learned senior counsel for the parties at length and perused the records.

5. Although, the High Court has recorded a finding to the above effect, however, considering the definition of 'family' in Section 3(g) of the Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (for short, 'Act, 1972'), a nephew is not included in the definition of the 'family'. The said definition, as contained in Section 3(g) of the Act, 1972, is reproduced hereunder for ready reference:

> *"(g) "family", in relation to a landlord or tenant of* a *building, means his or her-*
>
> *(i) spouse,*
>
> *(ii) male lineal descendants,*
>
> *(iii) such parents, grand parents and any unmarried or widowed or divorced or judicially separated daughter or daughter of a male lineal descendant, as may have been normally residing with him or her,*
>
> *and includes, a relation to a landlord, any female having a legal right of residence in that building;"*

6. On a plain reading of the definition of 'family' under Section 3(g) of the Act, 1972, it is apparent that only the spouse, male lineal descendants and such parents, grand parents and any unmarried or widowed or divorced or judicially separated daughter or daughter of male lineal descendant residing with him or her, are included in the definition of 'family' under Section 3(g) of the Act, 1972 with other inclusion of, in relation to a landlord, any female having a legal right of residence in that building. A nephew of landlord or a tenant is, thus, not included in the definition of 'family' under the Act, 1972.

7. Learned senior counsel appearing for the respondents has placed reliance on the judgment rendered by this Court in the case of *K.V. Muthu Versus Angamuthu Ammal, (1997) 2 SCC 53* wherein, a foster son is treated as a member of the family. Having perused the judgment rendered in the case of *K.V. Muthu (supra),* it is clearly discernible that the tenant therein had left a Will bequeathing a life estate in favour of the foster son, therefore, it is not purely a case of foster son being treated as the member of the family but, it was on account of the facts special to that matter which prevailed upon this Court to treat the foster son of the tenant as the member of the family.

8. The present is a case where, except the fact that respondent no. 2 was living with the tenant since childhood, there is no other special facts which may include a 'nephew', by process of interpretation, within the sweep of definition of 'family', as occurring in Section 3(g) of the Act, 1972. Reading a 'nephew' in the definition of 'family', would amount to expanding the definition of 'family' and if that is allowed, then this Court would be permitting expansion of such definition in the facts and circumstances of a particular case.

9. If the intention of the Legislature is not to include any other family member in the definition of 'family', than the ones who are mentioned in the definition of 'family', it is not open for us to include any other member within the definition of 'family'.

10. Once, this Court holds that a 'nephew' is not a member of the 'family', as defined in Section 3(g) of the Act, 1972, the other factual basis for seeking eviction of the respondent nos.1 and 2 from Shop B of the suit premises, is admitted. Although, the appellants-landlord has sought eviction from both the premises, i.e. Shop A and Shop B on the ground that the tenancy was joint and common, therefore, once the respondent no.1-tenant is guilty of sub-letting a part of the tenanted premises, he deserves to be evicted from the entire premises. However, the evidence available in the case would suggest that Shop A and Shop B were treated separately all throughout and as a matter of fact, this is the finding recorded by the Courts below also.

11. Thus, if the default *qua* sub-letting has occasioned only in respect of Shop B, we allow this appeal in part directing respondents/tenants/sub-tenant's eviction from Shop B alone.

12. Thus, the impugned order is set aside in part and the respondents/tenants/sub-tenant are directed to handover vacant possession of Shop B to the appellants within a period of six months from today subject to usual undertaking being filed by them in the Registry of this Court within a period of one week from today. The respondents/tenants/sub-tenant shall also clear the entire arrears of rent, if any, in relation to Shop B within one month and shall also continue to pay the current rent/occupational charges in respect of Shop B till the time the respondents/tenants/sub-tenant vacate the subject premises.

13. In addition, the respondents/tenants/sub-tenant shall also not create any third party interest in the subject tenanted premises of Shop B till the period the respondents/tenants/sub-tenant remain in occupation.

14. In the aforestated terms, the appeal is partly allowed.

15. No order as to costs throughout.

Result of the case: Appeal partly allowed.

†*Headnotes prepared by:* Divya Pandey