

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 1065 OF 2003

DHARAM PAL & ORS.

Appellant (s)

VERSUS

SATPAL BHANDARI(DEAD)BY LRS.

Respondent(s)

(With office report)

WITH

Civil Appeal Nos. 1476-1477 of 2004

(With office report)

Civil Appeal No. 1881 of 2004

(With office report)

SLP(C) No. 24212 of 2003

(With prayer for interim relief)

Civil Appeal No. 2545 of 2004

(With office report)

Civil Appeal No. 6264 of 2004

(With office report)

Civil Appeal No. 6282 of 2004

(With prayer for interim relief and office report)

Civil Appeal No. 6376-6377 of 2003

(With office report)

Civil Appeal No. 7744 of 2004

(With office report)

Civil Appeal Nos. 8474-8475 of 2003

(With office report)

Date: 13/12/2005 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE A.K. MATHUR

....2/-

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For Appellant(s)

in CA 1065/2003: Mr. Amrit Lal Jain,Adv.

Mr. D.D. Gupta,Adv.

Mr. Pankaj Jain,Adv.

Ms. Neena Gupta,Adv.

Mr. P.N. Puri,Adv.

in CA 6264/2004: Mr. Sudir Walia,Adv.

Mr. Mahinder Singh Dahiya,Adv.

in CA 1476-1477/2004: Mr. Punit Dutt Tyagi,Adv.

in CA 1881/2004: Mr. Sanjeev Narula,Adv.

Mr. Subramonium Prasad,Adv.

in CA 2545/2004: Mr. K.G. Bhagat,Adv.

Mr. Vineet Bhagat,Adv.

Ms. Sangeeta Gaur,Adv.

Mr. Debasis Misra,Adv.

in CA 6282/2004: Mr. Saba Rahman,Adv.

Mr. Vivek Singh,Adv.

Mr. Lakshmi Raman Singh,Adv.

in CA 7744/2004: Mr. Vipin Gogia,Adv.

Ms. Jaspreet Gogia,Adv.

in CA 6376-6377/2003: Mr. A.P. Mohanty,Adv.(Not Present)

in CA 8474-8475/2003: Mr. P. Venugopal,Adv.
Mr. Venu Kumar,Adv.
Mr. Harshad V. Hameed,Adv.
for M/s. K.J. John & Co.,Advs.

For Petitioner(s)

in SLP 24212/2003: Mr. Neeraj Kumar Jain,Adv.
Mr. Aditya Kumar Chaudhary,Adv.
Mr. Ugra Shankar Prasad,Adv.

For Respondent(s)

in CA 1065/2003: Mr. K.T.S. Tulsi,Sr.Adv.
Ms. Indra Sawhney,Adv.
Mr. Lokesh Bhandari,Adv.
Ms. Mrinmayee Sahu,Adv.

in CA 6264/2004: Mr. K.G. Bhagat,Adv./
Mr. Vineet Bhagat,Adv.
Ms. Sangeeta Gaur,Adv.
Mr. Debasis Misra,Adv.

...3/-

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in CA 1476-1477/2004: Mr. Sanjay Kunur,Adv.
Mr. Ramesh N. Keswani,Adv.
Mr. Ramlal Roy,Adv.
Mr. N.N. Keshwani,Adv.

in CA 1881/2004: Mr. Anil Mittal,Adv.
Dr. Kailash Chand,Adv.

in CA 2545/2004: Mr. K.L. Taneja,Adv.

in CA 6282/2004: Mr. Prem Malhotra,Adv.

in CA 7744/2004: Mr. Ajay Bansal,Adv.

Mr. Sanjay Kumar, Adv.

Mr. Ajay Choudhary, Adv.

in CA 6376-6377/2003:

Ms. Neelam Kalsi, Adv.

Mr. Vimal Chandra S. Dave, Adv.

in CA 8474-8475/2003:

Ms. Aishwarya Bhati, Adv.

Mr. K.S. Bhati, Adv.

in SLP 24212/2003:

Mr. Rajiv Dutta, Sr. Adv.

Mr. R. Nedumaran, Adv.

Mr. M.F. Humayunisa, Adv.

Mr. Uday Kumar, Adv.

Ms. Namrata Chopra, Adv.

UPON hearing counsel the Court made the following

O R D E R

C.A. No.1065 of 2003:

The appeal is dismissed.

No costs.

S.L.P.(C) No. 24212 of 2003:

Heard learned counsel for the parties.

We do not find any ground to interfere with the impugned order

. The

special leave petition is, accordingly, dismissed.

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The petitioner is granted time till 30th September, 2006, to v

his Court premises in question, upon filing a usual undertaking in t
within a

period of four weeks' from today.

C.A. No.6264 of 2004:

Heard learned counsel for the parties.

The appeal is dismissed.

No costs.

C.A. Nos.1476-1477 of 2004:

List in January, 2006.

C.A. No.1881 of 2004:

Heard learned counsel for the parties.

The appeal is allowed.

No costs.

C.A. No.2545 of 2004:

Heard learned counsel for the parties.

The appeal is dismissed.

No costs.

C.A. No.6282 of 2004:

Heard learned counsel for the parties.

The appeal is dismissed.

No costs.

C.A. No.7744 of 2004:

Heard learned counsel for the parties.

The appeal is dismissed.

No costs.

C.A. Nos.6376-6377 of 2003:

Nobody has appeared to press these appeals in spite of repeated calls. The respondent is represented through a counsel.

The appeals are dismissed for non-prosecution.

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C.A. Nos. 8474-8475 of 2003:

Place the appeals after four weeks.

In the meantime vakalatnama be filed by the legal representatives of the deceased sole appellant as also the counter affidavit to the application for substitution.

[Alka Dudeja]	[Charanjeet Kaur]	[Om Prakash]
Court Master	Court Master	Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1065 OF 2003

Dharam Pal and Ors.

...Appellant(s)

Versus

Satpal Bhandari (Dead) by Lrs.

...Respondent(s)

WITH

CIVIL APPEAL NOS.6264, 1881, 2545, 6282 AND 7744 OF 2004

AND 6376-6377 OF 2003

O R D E R

Civil Appeal No.1065 of 2003:

Heard learned counsel for the parties.

We do not find any ground to interfere with the impugned order. The civil appeal is, accordingly, dismissed.

The appellants are granted time till 31st December, 2006, to vacate the premises in question, upon filing a usual undertaking in this Court within a period of four weeks' from today.

No costs.

Civil Appeal No.6264 of 2004:

Heard learned counsel for the parties.

We do not find any ground to interfere with the impugned order.

The appeal is, accordingly, dismissed.

No costs.

....2/-

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Civil Appeal No.1881 of 2004:

Heard learned counsel for the parties.

This appeal by special leave has been filed by the tenant against judgment

rendered by the High Court. The respondent filed a petition for eviction before the

Rent Controller on the ground that originally the building was let out for running a

cloth business, but without obtaining permission of the land-lord, the tenant has

changed the use of the premises from cloth business to the business of making shoes.

The Rent Controller dismissed the petition, but on appeal being filed by the land-lord,

an order of eviction was passed and the same has been upheld by the High Court.

Hence, this appeal by special leave.

Learned counsel appearing on behalf of the appellants has placed before us

the rent note and submitted that though in the rent note it was specifically mentioned

that the tenant shall carry on the business of cloth in the premises in question, but

nowhere it was mentioned that he was prevented from carrying on any other business.

In support of his submission learned counsel has placed reliance upon two decisions of

this Court in the cases of Mohan Lal Vs. Jai Bhagwan, reported in 1988 (2) SCC 474

and Rattan Lal Vs. Asha Rani, reported in 1988 (3) SCC 586. In these cases

specifically it has been laid down that unless there is prohibition clause in the rent note

whereby tenant is debarred from carrying on any other business, it cannot be said that

he has violated the terms of the rent note and is liable to be ejected on the ground of

change in user. In our view, the present case is squarely covered by the aforesaid

decisions of this Court as here also there is no such prohibition clause in the rent note.

This being the position, we are of the view that the appellate court as well as the High Court were not justified in passing the order of eviction.

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Accordingly, the appeal is allowed, impugned orders passed by the appellate court as well as the High Court are set aside and the order passed by the Rent Controller dismissing the claim for eviction is restored. We may, however, observe that it would be open to the land-lord to move the Rent Controller for fixation of fair rent. In case such an application is filed, the same shall be disposed of on its own merit.

No costs.

Civil Appeal No.2545 of 2004:

Heard learned counsel for the parties.

We do not find any ground to interfere with the impugned order.

The appeal is, accordingly, dismissed.

No costs.

Civil Appeal No.6282 of 2004:

Heard learned counsel for the parties.

We do not find any ground to interfere with the impugned order.

The appeal is, accordingly, dismissed.

No costs.

Civil Appeal No.7744 of 2004:

Heard learned counsel for the parties.

We do not find any ground to interfere with the impugned order. The civil appeal is, accordingly, dismissed.

The appellant is granted time till 31st December, 2006, to vacate the premises in question, upon filing a usual undertaking in this Court within a period of four weeks' from today.

No costs.

....4/-

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Civil Appeal Nos. 6376-6377 of 2003:

Nobody has appeared to press these appeals in spite of repeated calls. The respondent is represented through a counsel.

The appeals are dismissed for non-prosecution.

.....J.

[B.N. AGRAWAL]

.....J.

[A.K. MATHUR]

New Delhi,

December 13, 2005.