

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(s). 2200 OF 2006

P.D. JAIN & BROS.

Appellant (s)

VERSUS

VASANT PRANVALLABH & ORS.

Respondent(s)

(With appln(s) for directions)

Date: 25/11/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MR. JUSTICE R.M. LODHA

For Appellant(s) Mr. R.F. Nariman, Sr. Adv.

Mr. Jaimini Kumar Shah, Adv.
Mr. T.V.S. R. Sreyas, Adv.
Mr. Ambuj Agrawal, Adv.
Mr. Nikhil Nayyar, Adv.

For Respondent(s) Mr. U.U. Lalit, Sr. Adv. (Not Present)

For R-2 Mr. Chinmoy Khaladkar, Adv.
Mr. Vimal Chandra S. Dave, Adv.

Mr. Shyam Divan, Sr. Adv.
Mr. Pratap Venugopal, Adv.
Ms. Deepti, Adv.
Mr. Purushottam Jha, Adv.
for M/S. K.J. John & Co., Adv.

UPON hearing counsel the Court made the following
O R D E R

For the reasons stated in the signed order the
impugned judgment and order of the High Court as well as
that of the First Appellate Court are set aside and the
appeal is allowed with no order as to the costs.

(Ajay Kr. Jain)
Court Master

(Indu Satija)
Court Master

(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2200 OF 2006

P.D. Jain & Bros.

.... Appellant

Versus

Vasant Pranvallabh & Ors.

.... Respondents

O R D E R

Heard learned counsel for the parties.

This appeal has been filed against the impugned judgment and order dated 12.07.2005 of the High Court of Bombay.

The facts in brief are that the appellant is tenant in the premises in question and the respondents are the landlord thereof. An eviction petition was filed by the landlords alleging that the tenant had changed user of the premises. The said eviction petition was dismissed by the Trial Court by order dated 20.11.1998. An appeal preferred against the said order was allowed by the First Appellate Court which has been upheld by the High Court by the impugned order.

There is neither any allegation nor any evidence that the contract of tenancy specified a particular business which alone could be carried on in the premises in question. If a particular business is specified in the contract of tenancy and subsequently a different business is started then only it could be said that there was a change of user. But, in the present case the case set up by the landlords was that the premises were let out for business purposes without specifying any particular business and it was alleged that later the tenant started using the premises in question as godown for storing of goods. Hence, it cannot be said that there was a change of user of the premises in question. Certainly, use of the premises in question as a godown is for the purposes of carrying on business.

For the reasons mentioned, we set aside the impugned judgment and order of the High Court as well as that of the First Appellate Court and allow this appeal.

Appeal allowed. No order as to the costs.

.....J.
(MARKANDEY KATJU)

.....J.
(R.M. LODHA)

NOVEMBER 25, 2009