

ITEM NO.68

COURT NO.9

SECTION IV-B

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

Petition(s) for Special Leave to Appeal (C) No(s). 7987/2019

(Arising out of impugned final judgment and order dated 13-12-2018 in RSA No. 3113/2018 passed by the High Court Of Punjab & Haryana At Chandigarh)

KEWAL KRISHAN & ORS.

Petitioner(s)

VERSUS

NAND KISHORE & ANR.

Respondent(s)

Date : 12-02-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KAROL
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Petitioner(s) Mr. Sudhir Walia, Adv.
Ms. Niharika Ahluwalia, AOR
Mr. Himagn Jain, Adv.

For Respondent(s) Mr. Avinash Kr. Lakhnpal, AOR

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

I.A.Nos. 5557, 5559 and 5660 of 2024

Application for substitution for bringing on record the LRs of deceased Petitioner No. 4 (Darshna), application for setting aside abatement and application for c/delay in filing setting aside abatement, are allowed.

IA No. 11966, 11967 and 11968/2024

Application for substitution for bringing on record the LRs of deceased Respondent No. 1 (Nand Kishore), application for setting aside abatement and application for c/delay in filing setting aside abatement, are allowed.

Plaintiffs' plea of the defendants being tenants is refuted, with the latter pleading ownership by way of adverse possession, for having constructed the shop and occupying the same since the time of ancestors over a period of 60 years. However, significantly the plaintiffs being the title holders of the land was never in dispute.

The Trial Court dismissed the plaintiffs' suit for possession which judgment and decree stands reversed by the First Appellate Court as is evident from the record. However, vide impugned judgment the High Court interfered holding that plaintiffs not to be the landlords for not having proven the sale deed in support of such claim. In the aforesaid backdrop, the plaintiffs have filed the instant petition.

We have heard the learned counsel for the parties at length.

After due deliberation and instructions from the defendants-respondents herein, as also the plaintiffs-petitioners herein, the special leave petition is disposed of on the following mutually agreed terms :

- a) The tenants-respondents do not dispute the plaintiffs' ownership both that of the land and the super-structure being the tenanted premises;
- b) The landlords and the tenants do not dispute the factum of tenancy, i.e., their relationship as landlord-tenant;
- c) The tenants undertake to vacate the premises and handover the vacant and peaceful possession of the tenanted premises on or before 28th February, 2025;
- d) The judgment and decree dated 23rd February, 2018 passed by

the Additional District Judge, Special Court, Gurdaspur in Civil Appeal No.12 of 2017 is restored; and

- e) The tenants undertake to clear all arrears of rent within a period of two months and pay rent/mesne profits at the same rate till such time the possession is handed over.
- f) The tenant shall not cause any damage or create any encumbrance of any kind, so also shall not transfer possession in any manner of the demised premises.
- g) The tenant shall continue to occupy, use, and enjoy the property strictly in terms of the municipal by-laws. No further construction, more so unauthorized in nature, shall be carried out by the tenant.
- h) Before handing over the possession, the tenant shall clear all statutory dues, on such terms, as are mutually agreed *inter se* the parties.
- i) In the event the tenant violates any of the terms, it shall be open to the landlord to initiate proceedings for obtaining possession in terms of the order of ejectment and also initiate proceedings for contempt, if so advised.
- j) It is needless to add that the landlord shall not cause any hindrance in the peaceful occupation and enjoyment of the demised premises by the tenant.
- k) All litigation *inter se* the parties, in relation to the demised premises shall stand closed.

Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
ASTT. REGISTRAR-cum-PS

(VIRENDER SINGH)
BRANCH OFFICER