

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION****Civil Appeal No(s). 8092/2013****ISLAM HUSSAIN & ORS.****Appellant(s)****VERSUS****HAJARI LAL & ANR.****Respondent(s)****O R D E R**

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.

.....J.  
(PRASHANT KUMAR MISHRA)

.....J.  
(SHREE CHANDRASHEKHAR)

New Delhi  
13.10.2026

ITEM NO.101

COURT NO.11

SECTION III-A

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). 8092/2013

ISLAM HUSSAIN &amp; ORS.

Appellant(s)

VERSUS

HAJARI LAL &amp; ANR.

Respondent(s)

[ AS FIRST ITEM ]

Date : 13-10-2026 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA  
HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR

For Appellant(s) :

Mr. Yatindra Singh, Sr. Adv.  
Mr. Prakash Gautam, Adv.  
Mr. Manoj Kumar Tyagi, Adv.  
Mr. Sanjay Kumar Tyagi- 1746, AOR

For Respondent(s) :

Mr. Jitendra Mohan Sharma, Sr. Adv.\*  
Mr. Sheo Kumar Gupta, Adv.  
Miss Saket Gautam, Adv.  
Mr. Shekhar Kumar- 1549, AOR  
Mr. Amrit Keshari Nandan Pradhan, Adv.  
Mr. Akshat Sharma, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. The appeal is partly allowed in terms of the signed reportable order.
2. Pending application(s), if any, shall stand disposed of.

(NISHA KHULBEY)  
COURT MASTER (SH)

(ANU BHALLA)  
COURT MASTER (NSH)

(signed reportable order is placed on the file)