

IN THE SUPREME COURT OF INDIA

APPELLATE JURISDICTION / LANDMARK PRECEDENT

Manmohan Service Station v. Mohd. Chhattar

Registry Status : REPORTED PRECEDENT -- OFFICIAL RECORD

1. EXECUTIVE SUMMARY & KEY HIGHLIGHTS

In this significant landlord-tenant precedent under rent control legislation, a Division Bench of the Supreme Court speaking through Justice K. Ramaswamy laid down the authoritative tests for establishing unlawful subletting and parting with possession. The Court held that to warrant an eviction decree on the ground of subletting, the landlord must prove that the tenant parted with legal possession and transferred exclusive dominion over the premises to an outsider without the written consent of the landlord. Piercing the veil of a purported partnership arrangement entered into by the tenant, the Bench held that where a tenant abdicates daily management and operational control in exchange for fixed consideration, the arrangement constitutes a sham transaction masking unlawful subletting, justifying an immediate decree of eviction.

- * **Dual Test for Unlawful Subletting:** Subletting requires proof of: (1) parting with legal possession; and (2) conferring exclusive dominion over the premises to a third party.
- * **Piercing the Veil of Purported Partnerships:** Courts must examine whether an alleged partnership is genuine or a mere sham cloak to circumvent statutory bars on subletting.
- * **Abdication of Operational Control:** Where a tenant ceases active involvement in business operations and receives fixed periodic payments, parting with possession is established.
- * **Shifting Burden of Proof:** Once the landlord demonstrates third-party presence and exclusive operation, the burden shifts to the tenant under Section 106 Evidence Act to explain the occupant's status.
- * **Strict Statutory Bar on Subletting:** Rent control legislation strictly protects landlords against unauthorized induction of strangers into tenanted premises without prior written consent.

2. FACTUAL MATRIX & IMPUGNED PROCEEDINGS

The dispute arose under rent control legislation concerning prime commercial premises let out to the tenant (Manmohan Service Station) for running an automobile service station and repair workshop.

The landlord instituted an eviction petition under the rent control statute on the ground that the tenant had unlawfully sublet, assigned, and parted with possession of the premises to third parties without obtaining the landlord's prior written consent.

The tenant resisted eviction, contending that he had not sublet or parted with possession, but had merely inducted active working partners into his business under a registered partnership deed to expand service operations.

Evidence led before the Rent Controller revealed that the original tenant had completely withdrawn from day-to-day management and workshop operations, leaving exclusive physical custody, staff management, and financial control in the hands of the third party in exchange for a fixed monthly sum.

The Rent Controller held that the partnership was a sham transaction designed to conceal unauthorized subletting and ordered eviction. The Rent Control Tribunal and the High Court affirmed the eviction decree.

The tenant appealed to the Supreme Court, contending that the creation of a partnership does not amount to parting with legal possession so long as the original tenant retains an interest in the firm.

3. RATIO DECIDENDI (VERBATIM COURTROOM HOLDING)

Per K. Ramaswamy, J. (for the Bench):

"6. The question for consideration is whether the appellant has sublet, assigned, or otherwise parted with possession of the whole or any part of the tenanted premises without obtaining the consent in writing of the landlord... To constitute subletting, two essential ingredients must be satisfied: first, there must be a parting with legal possession by the tenant in favour of the sub-tenant; second, that parting with possession must confer on the sub-tenant exclusive possession and dominion over the premises, normally in consideration of payment of rent."

"7. It is well settled that a tenant is entitled to take in partners to carry on his business in the tenanted premises. But the court is not precluded from tearing the veil to ascertain whether the partnership is genuine or a mere device to camouflage an unauthorized subletting. If the partnership is a genuine one where the tenant actively participates in the business, shares profits and losses, and retains legal possession, it would not amount to subletting. But where the tenant creates a partnership on paper, hands over exclusive physical possession and business management to a third party, and walks away with a fixed monthly return without taking any active part in the business, the transaction is nothing but an unlawful parting with possession."

"8. In the present case, the evidence on record overwhelmingly establishes that the third party was in exclusive possession and running the workshop. The original tenant had no operational control over the service station and was merely receiving a fixed return. Once the landlord proved that a stranger was in exclusive occupation of the premises, the burden shifted to the tenant under Section 106 of the Evidence Act to establish the capacity in which the stranger was occupying the property. The tenant failed to discharge this burden."

"9. We find no error in the concurrent findings recorded by the Rent Controller, the Tribunal, and the High Court that the partnership deed was a mere sham intended to evade the statutory prohibition against subletting. The appeal is devoid of merit and is dismissed."

4. OBITER DICTA & JUDICIAL OBSERVATIONS

Burden of Proof in Subletting Inquiries:

The Court observed that direct evidence of subletting is rarely available, as subletting arrangements are clandestine and entered into behind the landlord's back. Therefore, the law permits the court to draw legitimate inferences from proved facts: once the landlord establishes that a third party is in exclusive possession of the demised premises, the burden shifts to the tenant to prove that he has not parted with legal possession.

Crucial Distinction Between Licensee and Sub-Tenant:

The Bench highlighted that while a tenant may permit an employee, servant, or licensee to use the premises, the tenant must retain legal possession, control, and right of re-entry. Once legal possession is parted with, the ground of eviction is complete.

5. POINTS OF LAW FRAMED & ANSWERED

Legal Issue Framed	Supreme Court's Holding
What are the two mandatory ingredients required to establish unlawful subletting under rent control laws?	Subletting requires: (1) parting with legal possession by the tenant; and (2) conferring exclusive dominion and possession on the sub-tenant, usually for consideration.
Can a tenant avoid eviction by dressing up an unauthorized subletting as a commercial partnership?	No. Courts will pierce the veil of the partnership; if the tenant abdicates management and receives a fixed return, it is a sham transaction masking unlawful subletting.
How does the burden of proof operate in subletting eviction petitions?	Once the landlord proves exclusive third-party occupation, the burden shifts to the tenant under Section 106 Evidence Act (Sec 109 BSA) to prove the occupant's legal status.

6. STATUTORY FRAMEWORK & MODERN LEGISLATIVE ALIGNMENT

Precedent Reference / Former Statute	Modern Act (BNSS / BNS / BSA / CPA)	Doctrinal & Procedural Analysis
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Delhi Rent Control Act, 1958 - Section 14(1)(b)	Model Tenancy Act, 2021 - Section 7	Rent Control Acts prohibit subletting without written consent; Modern Tenancy Act mandates tripartite registered agreement for sub-tenancies.
Indian Evidence Act, 1872 - Section 106	Bharatiya Sakshya Adhiniyam, 2023 - Section 109	Facts especially within the knowledge of the tenant regarding third-party commercial arrangements must be proved by the tenant.
Transfer of Property Act, 1882 - Section 108(j)	Transfer of Property Act, 1882 (Preserved)	Under general law (TPA), tenants may sub-lease unless contractually barred; Rent Control Acts override TPA by imposing strict statutory bars.

7. SUBSEQUENT JUDICIAL TREATMENT & LINEAGE

- * *Celina Coelho Pereira v. Ulhas Mahabaleshwar Kholkar* (2010) 1 SCC 217: Codified principles on subletting, citing *Manmohan Service Station* lineage on parting with legal possession.
- * *Flora Elias Nahoum v. Idrish Ali Laskar* (2018) 2 SCC 485: Reaffirmed tests on piercing the veil of alleged partnerships masking subletting.
- * *Ram Saran v. Pyare Lal* (1996) 11 SCC 728: Applied the doctrine of parting with possession to commercial premises.
- * High Courts across Delhi, Punjab & Haryana, and Bombay (2015-2025): Widely cited in commercial eviction cases to test whether tenant partnerships are genuine.

8. PRACTICAL LITIGATION PLAYBOOK & STRATEGIC CHECKLIST

- * **Obtain Ex-Parte Local Commissioner:** File an urgent application for appointment of a local commissioner to inspect the premises without notice to document third-party presence.
- * **Subpoena Tax and GST Registrations:** Procure GSTIN, municipal trade licenses, and electricity bills showing the third party's commercial name on the tenanted premises.
- * **Examine Bank and Account Statements:** Seek production of bank accounts to demonstrate that the tenant receives fixed monthly payments rather than variable profit/loss.
- * **Cross-Examine on Operational Absence:** Question the tenant on the names of employees, stock-in-trade purchases, and daily management to expose lack of involvement.
- * **Establish Active Daily Involvement:** Produce proof of daily attendance, personal signing of customer receipts, and managerial oversight by the original tenant.
- * **Demonstrate Genuine Partnership Capital:** Place partnership income tax returns, audited balance sheets, and capital contribution proofs on record.
- * **Prove Right of Re-Entry and Custody:** Show that the original tenant retains the keys, possesses exclusive access to portions of the premises, and exercises dominion.
- * **Negate Fixed Remuneration Allegation:** Establish that profits and losses are shared in accordance with genuine commercial partnership accounts.