

Tenancy - Rights of a co-owner

“.....It is well settled that one of the co-owners can file a suit for eviction of a tenant in the property generally owned by the co-owners (See: Sri Ram Pasricha v. Jagannath, (1976) 4 SCC 184; Dhannalal v. Kalawatibai, (2002) 6 SCC 16 (Para 25): 2002 (1) RCR (Rent) 126 SC. This principle is based on the doctrine of agency. One co-owner filing a suit for eviction against the tenant does so on his own behalf in his own right and as an agent of the other co-owners. The consent of other co-owners is assumed as taken unless it is shown that the other co-owners were not agreeable to eject the tenant and the suit was filed inspite of their disagreement. In the present case, the suit was filed by both the co-owners. One of the co-owners cannot withdraw his consent midway the suit so as to prejudice the other co-owner. The suit once filed, the rights of the parties stand crystallized on the date of the suit and the entitlement of the co-owners to seek ejectment must be adjudged by reference to the date of institution of the suit; the only exception being when by virtue of a subsequent event the entitlement of the body of co-owners to eject the tenant comes to an end by act of parties or by operation of law.”

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