

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.74 of 2012

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Sardar Ujagar Singh S/O Late Sardar Indar Singh R/O Village - Mahua Singrai,
Post And P.S. Mahua, District - Vaishali

.... Petitioner/s

Versus

1. Ashok Chaudhary .
2. Manoj Chaudhary both S/O Late Ram Lakhan Chaudhary.
3. Mostt. Raj Kumari Devi W/O Late Baidya Nath Chaudhary.
4. Sanjay Kumar.
5. Sanjeev Kumar.
6. Abhishekh Kumar serial no. 4 to 6 S/O Late Baidya Nath Chaudhary all are R/O
Village - Mahua Singrai, Post And P.S. Mahua, District – Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shrinandan Pd. Singh, Adv.

For the Respondent/s : Mr. P.N. Sahi, Sr. Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

C.A.V. JUDGMENT

Date: 30-09-2015

Heard Mr. Shrinandan Pd. Singh, the learned senior
counsel for the petitioner and Mr. P.N. Sahi, the learned senior
counsel for the opposite parties.

This revision application has been filed under Section
14 (8) of the Bihar Buildings (Lease, Rent and Eviction) Control Act,
1982 (hereinafter referred to as the 'B.B.C. Act') by the defendant
challenging the judgment and order of eviction passed against him in
Eviction Suit No. 07 of 1994 by Munsif-II Hajipur.

At the out set, it would be pertinent to mention that



the defendant is admittedly the tenant of the plaintiffs over the suit premises consisting of two shops, described in detail in the schedule of the plaint, on monthly rent. The plaintiffs has filed the eviction suit seeking eviction of the defendant from the suit premises on the ground of personal necessity for settling his sons in business and also on the ground that the suit premises has become dilapidated and fresh construction is required after demolition. The plaintiffs have also asserted that the demolition of the suit shop is further necessary for widening the passage leading to the residential area of the plaintiffs.

The defendant, in his written statement, has contested the assertions of the plaintiffs and has denied the personal necessity as pleaded by the plaintiffs for settling his sons in business. It was also the case of the defendant that the suit premises were not in dilapidated condition and there was no need of the plaintiffs for new construction after demolition of the same. It has also been averred that the plaintiffs and his family were not facing difficulty in residing in the existing residential area.

The trial court, after considering the pleadings and evidence of the parties, has returned the findings on the issues against the defendant and has granted the decree of eviction to the plaintiffs, as prayed.

Mr. Singh, the learned senior counsel for the



petitioner, has submitted that the learned court below has not properly considered the evidence on behalf of the parties and has wrongly come to the conclusion that the plaintiffs have succeeded in establishing their bonafide personal necessity for the suit premises. It has been further canvassed that the learned court below has misconceived the extent to which the claim of personal necessity can extend and therefore also the impugned judgment is vulnerable. It has also been submitted that the plaintiffs have got other vacant shops also where they can start their business but the learned court below has failed to consider the said aspect. By placing the impugned judgment in extenso, the learned senior counsel has tried to impress this Court that the findings are based upon the correct appreciation of evidence. No other submission has been made on behalf of the petitioner.

Mr. Sahi, the learned senior counsel for the plaintiff-opposite parties, in his turn, has submitted that the findings recorded by the learned court below are based upon scrutiny of pleadings and evidence of the parties and there is no perversity in the same. It has also been propounded that the jurisdiction of this Court in revision under Section 14 (8) of the B.B.C. Act does not extend to interdict a finding of fact based on evidence, after re-appreciation of the evidence and reaching to a different conclusion altogether. Enervating the submissions on behalf of the petitioner, the learned senior counsel



has pointed out that the defendant, in his deposition itself, has accepted that he would vacate the suit premises on payment of money from the plaintiffs which exposes the bonafide of his defence. It has been further submitted that the plaintiffs have successfully established the case of personal necessity of the suit premises for new construction after demolition of the same which includes the widening of the passage to their residential area and for settling their sons in business of their own.

After perusal of the impugned judgment and consideration of the submission on behalf of the parties, it is manifest that the case of the personal necessity as pleaded by the plaintiffs consists of their need to demolish the old dilapidated construction for making new construction over the same, for widening the passage leading to the residential area and for settling their sons in business. From the evidence on record, as discussed by the trial court, it appears that the defendant, in his deposition in the suit, has admitted that the suit premises is old construction and has further also accepted to have approached the house controller for repair of the premises in his occupation though alleging that the “chhaja” had been demolished by the plaintiffs. Significantly, the defendant, in his deposition, has further admitted that the other tenants of the plaintiffs have vacated the shops in their occupation at the instance of the plaintiffs and has



further stated that he is also ready to vacate the suit premises if the landlord would pay him proper compensation. The findings by the trial court have been demonstrably recorded after the scrutiny of the oral evidence led on behalf of the parties. During the course of submission on behalf of the petitioner, this Court has not been persuaded to take the view that the findings are unreasonable or perverse or could not have been at all recorded on the basis of the evidence which are on record. The learned senior counsel on behalf of the plaintiff-opposite parties is correct in his submission that the jurisdiction of this Court under Section 14 (8) of the B.B.C. Act is only limited to the extent of finding out whether the order passed by the learned court below is in accordance with law. Manifestly, therefore, there is no scope for re-appreciation of evidence for reaching to a different conclusion unless the perversity or unreasonableness in any manner in the findings is shown or established. Merely, because another view may be possible on the re appreciation of evidence cannot be a ground for interfering with the findings of the court below in the revisional jurisdiction under Section 14 (8) of the B.B.C. Act. The principle in this regard has also been well laid by the Hon'ble Apex Court in the case of **Hindustan Petroleum Corporation Ltd. Vs. Dilbahar Singh 2014 (9) scale 657** while explaining the term 'use and occupation', the Apex Court has

laid down in the case of **Kun Hamma Alias Lakshmi Ammas Children Vs. Akkali Purushothaman 2007 (11) SCC 181**, the said term will include requirement of passage including the widening of the same and also the demolition of the existing structure.

For the aforesaid reasons and discussions, this Court comes to the conclusion that the impugned judgment and order of eviction has been passed by the learned court below in accordance with law and this revision application has got no merit. Accordingly, this revision application is dismissed. However, in the facts and circumstances of the case there shall be no order as to costs.

(V. Nath, J)

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