

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.658 of 2010

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Manzoor Alam, Son of Md.Hussain Mian R/o Mohalla-Gulab Chak,Pathkhauri,Ps-Bettiah(Town) District-West Champaran Presently Proprietor M/S Chola Tailnu,Church Road,Bettiah,District-West Champaran.

.... Petitioner

Versus

1. Michel Enduz Son of Late John Enduz.
2. Jorge Michel Son of Michel Anduz .
3. Walter Michel Son of Michel Anduz .
4. Victor Michel Son of Michel Anduz .
5. Filip Michel Son of Michel Anduz .
6. Pappu Albert Son of Michel Anduz .
7. Helen D/o Michel Anduz .
8. Reeta D/o Michel Anduz.
9. Pinki D/o Michel Anduz.
- 10.Dezy D/o Michel Anduz.

All residents of Christian Quarter, Church Road, Bettiah, P.S.- Bettiah (Town), District-West Champaran.

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Aditya Nath Jha, Adv.
Mr. R.S.Sahay

For the Respondent/s : Mr. Anil Kumar Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 23-09-2016

Heard Mr.Aditya Nath Jha, learned counsel
appearing for the petitioner and Mr. Sinha, learned counsel appearing
for the opposite parties.

This revision application has been filed under
Section 14(8) of the Bihar Building (Lease, Rent & Eviction) Control
Act (hereinafter referred to as B.B.C.Act) against the judgment and
decree dated 31.05.2010 passed in Eviction Suit No. 108/2007

whereby and whereunder the eviction suit has been decreed and the defendant has been directed to vacate the suit premises.

The suit was filed by the plaintiff seeking eviction of the defendant on the ground of personal necessity. The suit premises is a shop in occupation of the defendant-tenant as monthly tenant. It was the case of the plaintiff that there was only one latrine and bathroom in the premises located on the ground floor and the plaintiff and her husband had difficulty in coming to ground floor for using the said bathroom in view of their advanced age. The defendant appeared and contested the claim of the plaintiff, inter alia, denying the personal necessity of the suit shop as pleaded by the plaintiff. The parties went to trial and adduced evidence in support of the rival cases. The learned court below after appraisal of the evidence adduced on behalf of the parties, has come to the finding that there is only one latrine and bathroom in the house in the ground floor where the suit premises is situate and accordingly has recorded the finding that the plaintiff has personal necessity for the suit premises. The learned court below has further considered the issue of partial eviction and has decided the same in favour of the plaintiff holding that the partial eviction would not satisfy the need of the plaintiff.

Mr.Jha, learned counsel appearing for the petitioner has submitted that the learned court below has not properly



considered the evidence adduced on behalf of the defendant-petitioner. It has been contended that the plaintiff in her deposition has accepted that a similar construction is there in the house on the 1st floor and the said statement amounts to admission that there is latrine and bathroom on the 1st floor as well. It has been next also submitted that the plaintiff died after passing of the impugned judgment and decree and therefore the personal necessity as claimed by the plaintiff has now vanished. No other submission has been made on behalf of the petitioner.

Mr.Sinha, learned counsel for the opposite party has supported the impugned order and has submitted that the same has been passed according to law.

The ambit and scope of the revisional jurisdiction under the Rent Control Act has now been settled by the constitution bench of the apex court in the case of ***Hindustan Petroleum Corporation L.T.D. Vs. Dilbahar Singh, (2014) 9 SCALE 657*** where their lordships have categorically laid down that a revisional court under Rent Control Act is not to reappreciate the evidence in order to differ with the findings of fact of the trial court, and the revisional jurisdiction is limited to that extent of finding out as to whether the judgment and order of eviction is according to law.

From the perusal of the impugned judgment , it is



pellucid that the evidence led on behalf of the parties on the issues have been elaborately scrutinized by the trial court and thereafter the finding has been recorded that as the plaintiff has succeeded in establishing the personal necessity of the suit premises as pleaded. The submission on behalf of the petitioner that the statement of the plaintiff in her deposition that the similar construction is there on the 1st floor of the building as well, will not take the defendant's case any far, as nothing has been placed before this Court to show that the said statement, in order to amount to admission has been categorical with regard to existence of a latrine and bathroom on the 1st floor. It is no more res integra that an admission, in order to be binding as such, must be clear and unambiguous. A laboured inference drawn from a statement can never qualify to be admission. The further submission on behalf of the petitioner that after the death of the sole plaintiff, the personal necessity as pleaded has vanished is also misconceived. The fact has not been denied that the plaintiff died after the judgment and decree passed by the trial court and in that view of the matter also there is no scope for consideration by the revisional court that the personal necessity of the plaintiff has vanished.

After careful consideration of the matter, this Court comes to the conclusion that the findings on the material issues including the issue of partial eviction have been recorded by the

learned court below on the basis of the evidence which were acceptable and could have been relied upon. This Court, therefore, does not find any perversity in the findings by the learned court below and concludes that the impugned judgment and decree are according to law.

Ex consequenti, this revision application, sans merit, is dismissed.

(V. Nath, J)

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