

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.118 of 2013

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D.A.V. Trust And Management Society, Chitra Gupta Road, New Delhi-55,
Through Its Regional Director North Bihar Zone, Arya Samaj Mandir, New Bailey
Road, Danapur, Patna. Petitioner/s

Versus

Indira Gandhi Institute of Medical Sciences (I.G.I.M.S.) Sheikhpura, Raja Bazar,
Patna-14 through Its Director. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vidya Sagar, Adv.
Mr. Praveen Kumar, Adv.
Mr. Uday Pratap Singh, Adv.
For the Respondent/s : Mr. Sunil Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 16-12-2016

Heard learned counsel for the petitioner and learned
counsel for the opposite party.

This revision application under Section 14 (8) of the Bihar
Buildings (Lease, Rent and Eviction) Control Act, 1982 (hereinafter
referred to as the 'B.B.C. Act') has been filed by the defendant-
petitioner questioning the legal sustainability of the judgment and
order of eviction passed in the Eviction Suit No. 05 of 2010 by
Munsif-II, Patna.

From the materials on record, it is evident that the plaintiff
is Indira Gandhi Institute of Medical Sciences (I.G.I.M.S.)
Sheikhpura, Patna whereas the defendant is D.A.V. Trust and
Management Society, New Delhi. The fact is admitted that the



defendant has been inducted as tenant in the suit premises by the plaintiff for running a school in its campus. The plaintiff filed the suit for eviction of the defendant on the ground of bona fide personal necessity of the suit premises for shifting its nursing school in the suit premises. It has been the case of the plaintiff that it has no separate building nor has sufficient space as per the guidelines of the nursing council for running such a nursing school and, therefore, the suit premises is reasonably and in good faith required by the plaintiff for their own occupation for running the nursing school therein. It has also been the case of the plaintiff that the partial eviction of the defendant would not satisfy the need of the plaintiff.

The defendant, on the other hand, has contested the prayer for eviction as made by the plaintiff on the ground that there is an agreement between the plaintiff and the defendant whereunder the plaintiff invited and permitted the defendant to establish the school in question in the campus for a period of 33 years, and the terms and conditions of the tenancy has been recorded in a memorandum of agreement on 15.01.1998. It is, therefore, the case of the defendant that the premature suit filed by the plaintiff is not maintainable. It has been further case of the defendant that the plaintiff has got other suitable space in its big boundary for running the nursing school and, therefore, also the requirement as set up by the plaintiff is not bona



fide. The defendant has also pleaded that it has made substantial investment in developing the infrastructure of the school in the suit premise on the basis of the term and understanding that the tenancy is to continue for 33 years.

The trial court has considered the oral and documentary evidence led on behalf of the parties and thereafter has returned the finding that the plaintiff has succeeded in establishing its bona fide personal necessity for the suit premises. It has been further also found that the partial eviction of the defendant from the suit premises would not satisfy the need of the plaintiff. Accordingly, the suit has been decreed and the impugned order for eviction has been passed.

Learned counsel appearing on behalf of the defendant-petitioner has firstly submitted that the suit filed by the plaintiff is not in good faith in view of the agreement between the parties that the tenancy will continue for 33 years. It has been contended that the memorandum of agreement dated 15.01.1998 which has been brought on record by way of evidence clearly shows that the tenancy of the defendant in the suit premises is for a period of 33 years. It has been further propounded that the learned court below has not properly considered the evidence on behalf of the parties wherein the witnesses on behalf of the plaintiff have admitted the fact of the existence of agreement between the parties creating the tenancy for 33 years.



Elaborating the submissions, it has been argued that in view of the admission by the plaintiff that the tenancy was created on the basis of agreement for a period of 33 years, the memorandum of agreement could not have been discarded for want of registration. It has been next submitted that the learned court below has not properly considered the oral and documentary evidence on behalf of the parties and in particular wrong reliance on the deposition made by D.W.1 and D.W.2 has been placed taking the same to be the admission of the personal necessity of the plaintiff. No other submission has been made on behalf of the petitioner.

Learned counsel appearing on behalf of the plaintiff-opposite party, however, has supported the impugned judgment and order for eviction and has submitted that the learned court below has passed the judgment and order for eviction after considering the material oral and documentary evidence adduced on behalf of the parties. In order to bolster his submission, learned counsel has placed the findings by the learned court below in detail.

After considering the submissions and perusal of the impugned judgment, it is manifest that the relationship of landlord and tenant is an admitted fact between the parties. However, the defendant's main plea with regard to the creation of a tenancy in the suit premises for 33 years on the basis of the memorandum of



agreement dated 15.01.1998 has not been sustained by the learned court below for want of registration of the said tenancy document. Though, the submission has been emphatically made on behalf of the petitioner that the tenancy was created for 33 years but no provision of law or precedent could be cited or shown on behalf of the petitioner to substantiate the contention that such a tenancy for 33 years could have been created on the basis of an unregistered document or on the basis of a memorandum. The learned court below has rightly considered this issue and has correctly come to the conclusion repelling the contention on behalf of the defendant that the plaintiff's suit is not maintainable as the tenancy was for 33 years. The documentary evidence has been considered in detail and thereafter the oral evidence has also been taken into notice by the learned court below before reaching to the conclusion that the plaintiff has succeeded in establishing his bona fide personal necessity for his own occupation of the suit premises and the partial eviction of the defendant from the suit premises would not satisfy the need of the plaintiff. In fact, the entire submission on behalf of the petitioner has centered around re-appreciation of evidence which cannot be ventured in the limited revisional jurisdiction under Section 14 (8) of the B.B.C. Act. In this regard, the principle has been well laid 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 that in the revisional jurisdiction the court cannot reverse the finding of fact as recorded by the trial court unless shown to be perverse or unreasonableness.

This Court has not been persuaded to find any perversity or unreasonableness in the findings as recorded by the trial court in the impugned judgment as the conclusions by the learned court below are based upon evidence which were acceptable or could have been relied upon. This Court thus holds that the impugned judgment and order of eviction have been passed according to law.

The revision application is, accordingly, dismissed.

(V. Nath, J)

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