

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Revision No.102 of 2015

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Martin & Harris Pvt. Ltd., a company registered under the Companies Act, 1956, having its registered office now at Unit No.6, Local Shopping Complex, S- Block, Pancsheel , P.S. Malviya Nagar, New Delhi-110017, having its Branch Office at Ariff Manzil, Naya Tola, Patna, P.S.- Kadam Kuan in the Town and District of Patna represented through Sanjay Kumar, S/o Late Shyam Sundar Prasad, Branch Manager, Martin & Harria PVt. Ltd.

.... Petitioner/s

Versus

Shri Vardhaman Nagar Society, a Society registered under the Societies Registration Act, 1860, having its office at Ariff Manzil, Naya Tola, Patna-80004, P.S.- Kadam Kuan in the Town and District of Patna, through its Honorary Secretary, Shri Shanti Lal Jain, son of late Shri Heera Lal jain, a resident of Rampur, Bazaar Samiti Road, P.S. Sultanganj, District- Patna-80006.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. H. L. Tikku, Sr. Adv. with Mrs. Yasmeet, Adv and Mr. Amish Kumar, Adv.

For the Respondent/s : Mr. J. S. Arora, Adv. with Mr. Saurav Pratap, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 17-08-2016

Heard Mr. H.L. Tikku, learned senior counsel appearing on behalf of the petitioner and Mr. J.S. Arora, learned counsel for the opposite party. The respective written submissions have also been filed on behalf of the parties. With the consent of the parties, this revision application is being disposed of by this judgment.

The defendant-tenant is the petitioner in this revision application which 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') questioning the legal sustainability of the judgment and decree of eviction dated 03.08.2015 passed in Eviction Suit No. 31 of 2001.

The matrix of facts displays that there was a building known as Ariff Manzil which was under the occupation of the defendant-petitioner as tenant. This building was surrounded by a large area of vacant land belonging to the owner of the building. A suit for eviction was filed against the defendant-tenant by the owner landlord of the building seeking eviction of the defendant-petitioner. The said eviction suit ended in the order dated 17.08.1995 passed in terms of compromise before the Apex Court in Civil Appeal No. 7415 of 1995 whereby the defendant-tenant was allowed to occupy only the eastern half of the building (area of 3870 sq. fit.) as tenant in accordance with the terms and conditions enumerated in the compromise petition. The defendant-petitioner thereafter has continued in possession of the eastern half portion of the building as tenant.

The owner landlord subsequently sold the vacant area surrounding the building by carving out small plots out of the same to 29/30 persons by executing respective registered sale deeds in favour of those persons and put them in possession over their respective



purchased portions of the land. Those purchasers entered into an agreement (Annexure-4) whereby they collectively decided to form a residential colony consisting of their purchased plots which they named as 'Shri Vardhaman Nagar' and to live together as residents of that colony on the agreed/settled terms and conditions between them. They also agreed and formed a Society named as 'Shri Vardhaman Nagar Society' for the development and management of the colony 'Shri Vardhaman Nagar'. Later on the said Shri Vardhaman Nagar Society was registered under the Societies Registration Act. It would be condign to notice here that the purchasers under the agreement (Annexure-4) also mentioned that in their colony (Shri Vardhaman Nagar) there would be a Digambar Jain Temple and a community hall.

Shri Vardhaman Nagar Society (hereinafter mentioned as Society) later on purchased the eastern half portion of the aforesaid building which was under the tenancy of the defendant-petitioner by the registered sale deed dated 12.06.2000 from the owner-landlord. In the copy of the registered sale deed (Annexure-5) there is recital that the purchase of the portion of the building by the Society has been made for the purpose of establishing a community hall for the use by all its members and their families. The fact of the tenancy of the defendant petitioner in the purchased portion of the building has also been mentioned in the sale deed.



The eviction suit no. 31 of 2001 was filed by the Society as plaintiff praying for a decree of eviction against the defendant-petitioner under Section 11 (1) (c) of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1983 (hereinafter referred to as 'B.B.C. Act') on the ground of reasonable and bonafide requirement of the suit premises for the purpose of its development as community hall for the use and occupation of the members of the Society. The defendant-petitioner appeared in the suit and filed written statement contesting the case and claim of the plaintiff-opposite party.

By the impugned judgment and decree the learned court below has returned the findings on material issues in favour of the plaintiff-opposite party and granted the decree for eviction as prayed.

While criticizing the impugned judgment, Mr. Tikku, learned senior counsel for the petitioner has put emphasis mainly upon the failure of the learned court below to appreciate the distinction between the concept of 'desire' and 'requirement' and has submitted that the learned court below has wrongly passed the decree for eviction after blurring the said well defined distinction. It has been canvassed that a decree for eviction on the ground as envisaged in Section 11 (1) (c) of the B.B.C. Act can be passed only when the landlord has succeeded in establishing firstly his personal need for the suit premises and further thereafter that the said need is bona fide and



reasonable. It has been contended that the distinction between the 'desire' and 'need' is well defined by the Apex Court in several decisions wherein it has also been held that the desire of the landlord to occupy the suit premises can not qualify as the basis for a decree for eviction. Elaborating his submissions, after referring to the pleadings and evidence on record, it has been further contended that the purpose of establishing a community centre can at the most be only a desire of the plaintiff-Society while keeping in view the convenience of its members but it can never achieve the degree to become a bonafide and reasonable need in the facts and circumstances of the case. It has also been argued that the absence of bona fide necessity for establishing a community hall is apparent from the fact that though the 30 purchasers (members of the Society) expressed their desire to have a community hall on 16.11.1998 but they, through the Society which they formed subsequently, consciously purchased the suit premises already in occupation by the defendant-petitioner as tenant by sale deed dated 12.06.2000 and eventually filed the suit for eviction only on 12.07.2001 after one year of the purchase. It has been thus contended that the sequence of these events is a clear pointer to the fact that establishing a community hall is only a desire and ploy to seek eviction of the defendant-petitioner. It has also been submitted that the impugned judgment of the learned court below is largely



based upon the personal opinion of the court itself than on the evidence on record. It has been contended that the judge cannot infuse his personal opinion and make the same the basis of the judgment. It has further been also submitted that the sustainability of the case of bona fide personal need of the plaintiff is belied by the absence of any pleading or evidence showing sanctioned required plan/map for the construction of the community hall or even the availability of the funds with the plaintiff to meet the cost of such construction. Learned senior counsel has also made submission upon the legality and propriety of the formation of the plaintiff-Society and its registration. No other submission has been made on behalf of the petitioner.

Countering the submissions on behalf of the defendant-petitioner, Mr. Arora, learned counsel for the plaintiff-opposite party has propounded that though there exists distinction between 'desire' and 'need' but the said distinction has to be perceived objectively. It has been contended that the pleading and evidence of the plaintiff-opposite party have clearly proved and established that the availability of their own community hall is a need for the members of the plaintiff-Society which cannot be undermined on the ground of existence of similar places meant to be used by public at large and situated at a distance. It has been pointed out that even otherwise also the defendant-petitioner in its written statement has not specifically



denied the case of bona fide and reasonable personal necessity as pleaded by the plaintiff. It has also been submitted that even in the deposition of the witnesses of the defendant, the existence of the need for a community hall by the plaintiff Society stands admitted when all the material witnesses have consistently suggested the availability of community halls in the vicinity for such use. It has been argued that right from 1998 upto the filing of the suit for eviction, the explicit emphasis by the members of the plaintiff-Society has been on the construction of a community hall of their own and the time lag in between has been unduly emphasized by the defendant-petitioner in order to dilute the case of the bona fide requirement ignoring the fact that a Society having a conglomerate facet cannot promptly function like an individual. It has also been submitted that all the material plaintiff witnesses have consistently substantiated the requirement of the plaintiff-Society as pleaded and the documentary evidence on record also support the same. Confronting the case of the defendant-petitioner that the plaintiff-Society has purchased the suit premises for the purpose of evicting the defendant-petitioner, it has been submitted that such a plea is simply preposterous as the plaintiff-Society which has purchased the suit premises cannot by any stretch be said to be acting at the behest of the earlier landlord of the defendant-petitioner. It has been further argued that the suit premises is the only available



place to the plaintiff-Society for the construction of a community hall exclusively for the residents of the colony and therefore the assertion that the plaintiff has deliberately purchased a tenanted premises has no material bearing in the facts and circumstances of the case. The learned counsel has next argued that the defendant-petitioner cannot have locus standi to question the legality and propriety of the constitution of the plaintiff-Society and its registration and there is also no evidence adduced on behalf of the defendant-petitioner to establish that any objection in this regard was ever raised and any order was passed thereupon by the competent authority.

A number of decisions have been relied upon by learned counsel for the parties in support of their submissions and the same shall be considered appropriately hereinafter.

At the out set, it would be appropriate to take into notice the provision of Section 11 (1) (c) of the B.B.C. Act providing for eviction of a tenant on the ground of personal necessity. The said provision reads as follows:-

“11. Eviction of tenants.-(1) Notwithstanding anything contained in any contract or law to the contrary but subject to the provisions of the Industrial Disputes Act, 1947(Act XIV of 1947), and to those of section 18, where a tenant is in

NO
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NO
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NO
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NO

occupation of the tenant, which portion shall hence forth constitute the building within the meaning of clause (b) of Section 2 and the rent so fixed shall be deemed to be the fair rent fixed under Section 5;

It would also be appropriate to mention here that a suit for eviction filed on the ground mentioned in Section 11 (1) (c) is to be tried under the special procedure as prescribed under Section 14 of the B.B.C. Act. Clause 7 of Section 14 provides that the court while hearing a suit under the said section shall follow the practice and procedure of a court of small causes including the recording of evidence. No dispute in the present case has been raised on behalf of the petitioner regarding applicability of the said provision and in fact, the present revision application has been filed under Sub Section 8 of Section 14 wherein the jurisdiction of the High Court has been limited only to the extent of satisfying itself that the order under revision is according to law.

The scope of revisional jurisdiction under various Rent Control Acts has fallen for consideration before the Constitution Bench of the Apex Court in the case of **Hindustan Petroleum Corporation Ltd. Vs. Dilbahar Singh A.I.R. 2014 S.C. 3708** and their lordships have laid down the principles governing the revisional

jurisdiction of the High Court in such matter as follows:-

“.....The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that the finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order



impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of re-consideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.....”

It has been submitted by learned senior counsel for the petitioner that above decision by the constitution bench of the apex court has been rendered in a case where the appellate order was challenged in revisional jurisdiction and therefore the principles laid down therein would not be applicable in the case of a revision filed against the judgment and decree of eviction by the original court. This Court, however, does not find that the principles laid down by the

constitution bench with regard to the exercise of the revisional jurisdiction as provided under Rent Control Acts can be distinguished on the ground as submitted as there is nothing in the judgment to indicate such restrictive application of those principles as laid down.

Keeping in view the ambit and scope of the revisional jurisdiction as laid down above, the rival submissions of the parties is now to be examined. There is no dispute that the defendant-petitioner has been a tenant in the suit premises on the date when the plaintiff opposite party has purchased the same through registered sale deed dated 12.07.2001 from its admitted owner. By letter dated 23.12.2000 (Ext. 2) the owner of the suit premises had informed the defendant petitioner regarding the sale of the suit premises to the plaintiff-opposite party. Further the fact of the sold property being under the tenancy of the defendant-petitioner has also been mentioned in the sale deed. From the averments made in paragraph nos. 13 and 14 of the written statement, it is also evident that the defendant-petitioner has paid the rent to the plaintiff-Society. Though it has been averred that the rent has been paid to Shri Shanti Lal Jain (Mantri of the Society) accepting him to be only the agent of the landlord but in view of the letter dated 23.12.2000 (Ext. 2) of the landlord, there is no scope for accepting this plea of the defendant. Even otherwise also, it is well settled that in such a case atornment is not necessary as laid

down by a bench decision of this court in the case of **Dinesh Kumar Purbey Vs. Mahesh Kumar Poddar, 1991 (1) PLJR 650**. This Court thus holds that the finding by the learned court below that their exists relationship of landlord and tenant in between the plaintiff and the defendant does not suffer from illegality and is according to law.

So far as the plea of bona fide and reasonable personal necessity of the suit premises as raised by the plaintiff-Society is concerned, it is apparent from the averments made in the plaint that the plaintiff-Society has been formed by the purchasers of different plots of land carved out of the large area of land surrounding the building in which the suit premises is situate and belonging to the previous landlord of the defendant-petitioner. The aims and object of the plaintiff-Society have been mentioned by the defendant-petitioner itself in paragraph-2 of the written statement and when considered cumulatively it becomes plain and patent that the Society has been formed with express intention to look after the affairs of the residential colony and to work for the development of the colony in the interest of its resident members. The suit premises has been purchased by the plaintiff-Society and from the recitals of the sale deed (Ext. 7) it is further manifest that the purpose of the purchase of the suit premises has been stated to be for construction of a community hall for the resident members of the colony Shri



Vardhaman Nagar. In paragraph nos. 5, 8, 9, 10 and 12 of the plaint, the statements have been made that the plaintiff-Society is in need of the suit premises to be used as a community hall in the campus by its members and the suit premises has been purchased for the said purpose in order to develop it in a community hall. The defendant petitioner in the written statement has not specifically denied the said pleas. However, strenuous submission has been made by learned senior counsel for the defendant-petitioner before this Court to establish that the 'need' as stated in the plaint by the plaintiff-Society is in fact not a 'need' as envisaged under section 11 (1) (c) of the B.B.C. Act and it is only a 'desire' of the plaintiff-Society to establish a community hall for the purpose of providing convenience to its members on certain occasions. In substance, the submission on behalf of the petitioner is that the desire to have a better living with more convenience cannot be equated with a bona fide and reasonable personal requirement and an eviction decree cannot be passed on the basis of desire alone.

As a ground for eviction of a tenant under the B.B.C. Act, 'desire' and 'requirement' of the suit premises by the landlord have definitely different connotations and only the desire per se of the landlord for the occupation of the tenanted premises cannot be a ground for eviction. However, it is always the setting of facts of each



case which is material and relevant for determination of this vexed issue as different considerations on the basis of facts may arise and have to be kept within purview. It would also be fruitful to take into notice the principle in this regard as laid down by the Apex Court in the case of **Raghunath G. Panhale Vs. Chaganlal Sundarji (1999) 8 SCC 1** where their lordships have delved into the distinction between ‘desire’ and ‘requirement’ and have ruled that in a suit for eviction on the ground of personal necessity the plaintiff is not required to prove his ‘dire or absolute necessity’. It has been held as follows:-

“6. The word “reasonable”, in our view, connotes that the requirement or need is not fanciful or unreasonable. It cannot be a mere ‘desire’. The word “requirement” coupled with the word reasonable means that it must be something more than a mere desire but need not certainly be a compelling or absolute or dire necessity. A reasonable and bona fide requirement is something in between a mere desire or wish on one hand and a compelling or dire or absolute necessity at the other end. It may be a need in praesenti or within reasonable proximity in the future. The use of the word

“bona fide” is an additional requirement under Section 13 (1) (g) and it means that the requirement must also be honest and not be tainted with any oblique motive”.

(emphasis supplied)

Their lordships in the above decision have also taken into notice the observations made in **Bega Begum Vs. Abdul Ahad Khan, 1979 (1) SCC 273** laying down that the distinction between ‘desire’ and ‘need’ should doubtless be kept in mind but not so as to make even a genuine need as nothing but a desire.

In **Shiv Sarup Gupta Vs. Dr. Mahesh Chand Gupta, A.I.R. 1999 SC. 2507** also their lordships have observed as follows:-

“12.....What is a bona fide requirement is not defined in the Act. The words ‘need’ and ‘require’ both denote a certain degree of want with a thrust within demanding fulfillment. ‘Need’ or ‘requirement’ qualified by word ‘bona fide’ or ‘genuine’ preceding as an adjective-is an expression often used in Rent control Laws. ‘Bona fide or genuine need’ of the landlord or that the landlord ‘genuinely requires’ or ‘requires bona fide’ an accommodation for occupation by or use for

himself is an accepted ground for eviction and such expression is often employed by Rent Control legislation draftsman. The two expressions are interchangeable in practice and carry the same meaning.

13.Requirement is not a mere desire. The degree of intensity contemplated by 'requires' is much more higher than in mere desire. The phrase 'required bona fide' is suggestive of legislative intent that a mere desire which is outcome of whim or fancy is not taken note of by the Rent control Legislation. A requirement in the sense of felt need which is an outcome of a sincere, honest desire, in contradistinction with a mere pretence or pretext to evict a tenant, on the part of the landlord claiming to occupy the premises for himself or for any member of the family would entitle him to seek ejectment of the tenant. Looked at from this angle, any setting of the facts and circumstances protruding the need of landlord and its bona fides would be capable of successfully withstanding the test of objective determination by

the Court. The judge of facts should place himself in the arm chair of the landlord and then ask the question to himself-whether in the given facts substantiated by the landlord the need to occupy the premises can be said to be natural, real, sincere, honest. If the answer be in the positive, the need is bona fide.....Once the Court is satisfied of the bona fides of the need of the landlord for premises or additional premises by applying objective standards then in the matter of choosing out of more than one accommodation available to the landlord his subjective choice shall be respected by the Court.....In short, the concept of bona fide need or genuine requirement needs a practical approach instructed by realities of life. An approach either too liberal or too conservative or pedantic must be guarded against.....” (emphasis supplied)

It would also be apposite in the present context to take into notice the dictum in **Yudhishter Vs. Ashok Kumar, 1987 (1) SCC 204** as follows:-

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*It is well settled that though the Rent Act is a
beneficial legislation, it must be read reasonably
and justly. If more limitations are imposed upon the
right to hold the property then it would expose itself
to the vice of unconstitutionality. Such an approach
in interpretation of beneficial statutes is not
warranted.”*

In the present case, the facts and evidence on record demonstrate that the plaintiff-Society has purchased the suit premises with avowed intention for use of the same as a community hall by its members who have constructed their houses after purchasing the plots of land which are the parts of the vacant land within the boundary of the building known as Ariff Manzil where the suit premises is situated in its eastern part. Those purchasers have collectively decided to live together as residents of a colony which they named as Shri Vardhaman Nagar and also formed the Society to look after their needs and take care of the development of the said residential colony. Though it has been stated in the written statement by the defendant-petitioner that the purchased plots of land are still lying vacant having



no construction but D.W.-2 in paragraph-9 has accepted that the houses have been constructed in the vacant land and people are residing in those houses with their families. Similar is the statement in the deposition of D.W.-6 in paragraph-22 of his cross examination accepting the existence of 25-26 houses in the colony and absence of a community hall in the colony. It is also demonstrably clear from the depositions of the material witnesses examined on behalf of the defendant that none of the witnesses has specifically denied the need of the plaintiff-Society for a community hall, and to the contrary, they have further indicated the existence of general community halls near about the suit premises where functions like marriage etc. are held. These statements in the deposition by the witnesses examined on behalf of the defendant-petitioner lead to the definite inference that the need of a community hall by the plaintiff-Society has been accepted. On the other hand the witnesses examined on behalf of the plaintiff-Society in their deposition have consistently substantiated the need of the plaintiff-Society for its own community hall as pleaded and have further also supported the plea regarding the suitability of the suit premises as for the purpose of the community hall. It is also difficult to align with the submission that the fact of the availability of community halls catering to the need of the general public and situated nearby the suit premises is sufficient to dilute the requirement



of the plaintiff-Society to have its own exclusive community hall in the suit premises which has been purchased by it for valuable consideration for this purpose alone. In the backdrop of these facts, this Court does not find substance in the submission on behalf of the petitioner that the plaintiff-Society's requirement for the suit premises is fanciful and nothing more than only a desire.

Much stress has been laid by learned senior counsel for the defendant-petitioner upon the fact that the learned court below has infused its personal opinion in support of the plea of the requirement of a community hall by the plaintiff-Society. It appears from the impugned judgment that while dealing with the issue of personal necessity the learned court below has made observation taking notice of the rise in the price of urban land and the space-crunch in the urban area with houses built upon small plots of land leading to the need of community halls for holding ceremonies/functions involving gathering of a number of persons. However, it does not appear that these observations pertaining to general conditions prevailing in urban society can be termed as something which was specifically within the personal knowledge of the presiding officer of the court. The fact cannot be ignored that the proceeding before the learned court below was under the special procedure wherein the court was called upon to decide the issue of bona fide and reasonable personal requirement of



the suit premises by the plaintiff which was questioned by the defendant as only a 'desire' and not 'requirement'. At this juncture, the observation by their lordships in **Shiv Sarup Gupta** (supra) also becomes relevant that the judge of facts is required 'to place himself in the arm chair of the landlord and then ask the question to himself whether in the given facts substantiated by the landlord, the need to occupy the premises can be said to be natural, real, sincere and honest'. As further laid down in the said decision, the court is also required to apply objective standards in determination of the bona fides of the need of the landlord for premises. This Court does not find anything in the said observations by the learned court below which may qualify to be in the personal knowledge of the court as distinguished from the common knowledge of the condition prevailing in the society.

It has also been argued on behalf of the defendant-petitioner that no sanction map/plan for the construction of a community hall has been adduced in evidence by the plaintiff-Society and there is also no evidence of the availability of the requisite fund for such construction. This submission, however, has failed to impress this Court in view of the observations of their lordships in **Mattulal Vs. Radhe Lal 1974 (2) SCC 365** overturning the finding of the learned court below against the bona fide requirement of the landlord

on the ground of non-production of proof of preparation for starting new business, availability of funds for capital investment, permit etc. holding that these considerations were 'wholly irrelevant'. It has been observed as follows:-

“13.....It is difficult to imagine how the respondent could be expected to make preparations for starting the new business unless there was a reasonable prospect of his being able to obtain possession of the Lohia Bazar shop in the near future. It is a common but unfortunate failing of our judicial system that a litigation takes an inordinately long time in reaching a final conclusion and then also it is uncertain as to how it will end and with what result and unless the respondent could be reasonable sure that he would within a short time be able to obtain possession of the Lohia Bazar shop and start a new business, it would be too much to expect from him that he should make preparations for starting the new business...(emphasis supplied).”

The facts of purchase by the plaintiff society of a tenanted premises and filing of the suit for eviction nearly one year thereafter have also been highlighted on behalf of the defendant-petitioner during the course of submission for driving home the point that the



said purchase has been made with oblique motive to evict the defendant-petitioner. Strong reliance has been placed in this regard on the decision of the Apex Court in **Indrasen Jain Vs. Rameshwardas 2005 (9) SCC 225**. This Court, however, finds that no material evidence has been led on behalf of the defendant-petitioner in the suit to establish the collusion of the plaintiff-Society with the owner of the suit premises and the execution of the sale deed (Ext. 7) by the owner in favour of the plaintiff-Society with the oblique motive only to seek eviction of the defendant-petitioner. Even otherwise also the recitals in the sale deed and the evidence on record on behalf of the defendant do not substantiate this allegation. It is also not the case of the defendant-petitioner that there is any other place available to the plaintiff-Society in the vicinity for constructing its exclusive community hall by purchasing the same. There is also no pleading or evidence aliunde that the suit premises is not appropriate for the purpose of its use as community hall after its remodeling and development. The decision in the case of **Indrasen Jain** (supra) appears to have been rendered in a different setting of facts where the plaintiff had the option to purchase a vacant shop rather than going in for a tenanted premises. No such option has been shown to be available to the plaintiff-Society in the present case and the fact cannot be ignored that the plaintiff is a Society as distinguished from

an individual where the decisions are to be taken by the resolution in the governing body and the same degree of urgency or promptness cannot be expected.

The submission on behalf of the defendant-petitioner has also been made that the plaintiff-Society is not a lawful registered society but it does not appear from the record that any evidence in this regard has been led on behalf of the defendant-petitioner or any cross examination of the witnesses of the plaintiff-Society has been done on this point.

For the reasons and discussions as above made, this Court finds that the learned court below has passed the impugned judgment and decree for eviction according to law and the same does not require interference in the revisional jurisdiction of this Court under Section 14 (8) of the B.B.C. Act.

Accordingly, the revision application is dismissed and the impugned judgment and decree passed by the learned court below is affirmed. No cost.

(V. Nath, J)

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