

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.100 of 2015

=====

Sunil Kumar Singh Son of Late Balmiki Singh Resident of Village+P.O.-
Hanspur, P.S.-Matihani, District-Begusarai, Presently residing at Khadi
Bhandar, Near Teharinath Mandir, within Ward No.-20 Begusarai Nagar
Parishad P.S.-Begusarai (Town), District-Begusarai.

... .. Petitioner/s

Versus

1. Tara Devi Wife of Harihar Prasad Choudhary,
2. Vidya Shankar Choudhary S/o. Harihar Prasad Chaudhary
3. Sri Parashuram Choudhary Son of Late Radha Krishna Choudhary
All are Resident of Village-Cheriya Bariyapur, District- Begusarai, Presently
residing at Mohalla-Pokhariya within Ward No.-12 Begusarai Nagar Parishad
P.S.-Begusarai Town, District-Begusarai.
4. Anil Kumar Singh Son of Late Balmiki Singh Resident of Village+P.O.-
Hanspur, P.S.-Matihani, District-Begusarai, Presently residing at Khadi
Bhandar Near Teharinath Mandir, With in Ward No.-20 Begusarai Nagar
Parishad P.S.-Begusarai Town, District-Begusarai.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Choudhary Shyam Nandan, Advocate
For Opposite Parties	:	Mr. Gopal Prasad Roy, Advocate
		Ms. Anuja Shree Roy, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 08-02-2019

Heard learned counsel for the parties.

2. The defendant of Title Eviction Suit No.23 of
2009, under the provisions of Bihar Building (Lease, Rent &
Eviction) Control Act, 1982, has challenged the judgment and
decree dated 06.07.1915 whereby the suit brought by the
opposite parties on the ground of personal necessity has been
decreed.

3. The impugned judgment and decree would



reveal that the Court below found that there is admitted relationship of landlord and tenant between the parties. The plaintiffs have got bona fide and reasonable personal necessity for the suit premise for the use of unemployed and marriageable sons. The Court below further recorded that partial eviction would not satisfy the requirement of the plaintiffs. The Court below did not accept the argument of the defendant that since the plaintiffs have other suitable premises also under rent to some other person, the defendants, aged about 75 years, should not be asked to vacate the premise on the ground that plaintiffs have choice of selection of the premise to satisfy their need.

4. Learned counsel for the petitioner submits that it has come in the evidence that the same premise contains nine shops and there is no reason or reasonable explanation on behalf of the plaintiffs that why premise under rent of the petitioner should be vacated.

5. The law is well-settled that choice is of the landlord as to which of the rented premise the landlord desires to be used for his personal necessity. The tenant cannot dictate or compel the landlord to shift his choice of premises which is better suited according to the landlord to some other premise.



Therefore, there is no substance in the submission that since landlord has choice of other premises also, he should have opted for some other premise.

6. So far question of partial eviction is concerned, schedule-1 of the plaint would reveal that the suit premise consists of two brick built rooms inter-connected. One is at the front of the road and another is behind that room. Measurement of the room is not mentioned and the defendant has not stated in his written statement that even partial eviction from the suit premise would fulfill the reasonable need of the plaintiffs.

7. In **Hira Lal Das & Anr. V. Loknath Newatia** reported in **2014(4) PLJR 476**, a Bench of this Court considered identical issue in paragraph-17 of the judgment which reads as follows:

*“In the case of **Satya Narain Mishra @ Barkuji vs. Sudhanshu Anand & Ors.**, reported in **2013(2) P.L.J.R. 491**, this Court has held that once the issue of bona fide requirement and personal necessity is drawn in favour of the plaintiff, the onus shifts upon the defendant to prove that the bona fide requirement and personal necessity of the*



plaintiff would be satisfied by partial eviction.

On failure of the defendant to lead any evidence in this regard, the issue should be decided in favour of the plaintiff. This view has been reiterated by this Court in 2012(3) P.L.J.R. 649 (Hanuman Prasad Gupta vs. Shankar Choudhary) and 2005(3) P.L.J.R. 719 (Shri Vinod Kumar Gupta & Anr. vs. Smt. Pushpa Devi & Anr.).”

8. Apparently, in this case, the defendant-petitioner neither pleaded nor led any evidence that there was scope for partial eviction. Hence, this Court in exercise of supervisory jurisdiction, under Section 14 (8) of the Bihar Building (Lease, Rent & Eviction) Control Act, 1982, cannot interfere.

9. In the result, this civil revision has got no merit and, accordingly, it stands dismissed as devoid of any merit.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.02.2019
Transmission Date	12.02.2019

