

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.83 of 2013

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1. M/s Narayan Sah Sungheshwar Sah through Vijoy Sah Proprietor, resident of Sardari Lal Lane, Handiapatti Sujaganj, Post Office- Bhagalpur City, Police Station- Kotwali, District- Bhagalpur
 2. Vijoy Sah Son Of Late Narayan Sah Proprietor Of M/S Narayan Sah Singheshwar Sah Sardari Lal Lane, Handiapatti Sujaganj, Post Office- Bhagalpur City, Police Station- Kotwali, District- Bhagalpur
- Petitioner/s

Versus

Bibi Rabia Khatoon Wife Of Md. Zafrullah Retired Wing Commander India Air Force, Resident Of Mohalla- Tatarpur, Bhagwan Mahabir Path, P.O. Bhagalpur, P.S. Tatarpur, Distt. Bhagalpur

... .. Opposite Party/s

with
CIVIL REVISION No. 97 of 2013

Bijay Khandelwal @ Bijay Gupta S/O Late Deep Narayan Sah, By Profession Grain Merchant At Sardhari Lal Lane, Handipatti, Sujaganj, P.O. Bhagalpur City, P.S. Kotwali, District Bhagalpur.

... .. Petitioner/s

Versus

Bibi Rebia Khatoon W/O Md. Zafrullah Resident Of Mohalla Tatarpur, Bhagwan Mahabir Path, P.O. Bhagalpur City, P.S. Tatarpur, District Bhagalpur.

... .. Opposite Party/s

with
CIVIL REVISION No. 100 of 2013

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1. M/s Laxmi Narayan Sitaram, through the its Proprietor Sitaram Sah.
 2. Sitaram Sah @ Sita Ram Das S/O Late Laxmi Narayan Das @ Sah Proprietor Of M/S Laxmi Narayan Sitaram, Having Its Place Of Business At Sardhari Lal Lane, Handipatti, Sujaganj, P.O- Bhagalpur City, P.S- Kotwali, District- Bhagalpur.

... .. Petitioner/s

Versus

Bibi Rabiya Khatoon W/O Md. Zafarullah Resident Of Mohalla Tatarpur, Bhagwan Mahabir Path, P.O- Bhagalpur City, P.S- Tatarpur, District- Bhagalpur.

... .. Opposite Party/s



Appearance :

(In CIVIL REVISION No. 83 of 2013)

For the Petitioner/s : Mr. Shashi Shekhar Dwivedi, Sr. Advocate
Mr. Parth Gaurav, Advocate
Mr. Ashutosh Kumar Pandey, Advocate
For the Opposite Party/s : Mr. J.S. Arora, Sr. Advocate
Mr. Ravi Bhatia, Advocate

(In CIVIL REVISION No. 97 of 2013)

For the Petitioner/s : Mr. Amar Nath Singh, Advocate
For the Opposite Party/s : Mr. J.S. Arora, Sr. Advocate
Mr. Ravi Bhatia, Advocate

(In CIVIL REVISION No. 100 of 2013)

For the Petitioner/s : Mr. Praveen Kumar, Advocate
For the Opposite Party/s : Mr. J.S. Arora, Sr. Advocate
Mr. Ravi Bhatia, Advocate

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
CAV JUDGMENT

Date : 30-11-2023

Heard Mr. Shashi Shekhar Dwivedi, senior counsel for the petitioners and Mr. J. S. Arora, senior counsel for the opposite party.

2. All the three Civil Revision applications have been filed under the provision of Sub Section 8 of Section 14 of Bihar Building (Lease, Rent and Eviction) Control Act, 1982 (hereinafter referred to 'Act' for the sake of brevity), arising out of separate Title (Eviction) Suit filed by the same opposite party being the owner and land lady of the suit premises against the three tenants in three eviction suits on the ground of personal necessity of the plaintiff-opposite party for the suit premises.

3. Civil Revision application no. 83 of 2013 has been filed by the defendants-petitioners against the judgment and decree dated 30.03.2013 passed in Title (Eviction) Suit No. 28 of 2008 by



the learned Munsif-II, Bhagalpur having been passed under Section 11(1)(c) of the Act on the ground of personal necessity.

4. Civil Revision application no. 97 of 2013 has been filed by the defendant-petitioner against the judgment and decree dated 30.03.2013 passed in Title (Eviction) Suit No. 29 of 2008 by the learned Munsif-II, Bhagalpur, having been passed under Section 11(1)(c) of the Act on the ground of personal necessity.

5. Civil Revision application no. 100 of 2013 has been filed by the defendants-petitioners against the judgment and decree dated 30.03.2013 passed in Title (Eviction) Suit No. 30 of 2008 by the learned Munsif-II, Bhagalpur, having been passed under Section 11(1)(c) of the Act on the ground of personal necessity.

6. All the aforesaid three eviction suits have been filed by the plaintiff against the defendants on the ground of personal necessity stating that plaintiff's husband, who has retired as Wing Commander from Indian Airforce, is idle and unemployed for want of suitable space and accommodation to carry out business. The plaintiff wants to engage her husband in the business of wholesale textile and cosmetic goods etc. and wants to start wholesale business by making construction of a triple storied building in place of existing shops which are four in number. The plaintiff-opposite party had filed separate eviction cases against



each of the tenant of those shops, out of them, three were filed earlier. Since those tenants have refused to vacate and fourth tenant had assured to vacate the shop premises. However, later on, the fourth tenant also backed out and therefore, the fourth eviction suit against the said fourth tenant was also filed. The plaintiff further pleads that the defendant no. 1 being firm through its the then proprietor Narayan Sah, defendant no. 2 inducted as tenant in the suit premises since 1981 at the rate of Rs. 60/- per month in Title (Eviction) Suit No. 28 of 2008. In Title (Eviction) Suit No. 29 of 2008, the father of defendant, Babu Deep Narayan Sah (since deceased) was the tenant of the suit premises since 1981 on monthly rental basis at Rs. 120/- per month. In Title (Eviction) Suit No. 30 of 2008, defendant no. 1 is a proprietorship firm of which the defendant no. 2 is its proprietor and he was the tenant of the suit premises since 1981 at the rate of Rs. 120/- per month.

7. The description of the aforesaid three suit premises are as follows:-

(i) The description of the suit premises in Title (Eviction) Suit No. 28 of 2008 (Civil Revision No. 83 of 2013):-

A pucca shop room having plastered brick built wall with khapra posh roof over it attached with verandah located in holding no. 1



Sardhari lane, Handipatti, Sujaganj, ward no.
15, P.S.- Kotwali Town and District Bhagalpur,
which is bounded as follows:-

North	Municipal Lane and thereafter shop of Vijoy Sah
South	Boggy Shankar Gupta
East	Boggy Shankar Gupta
West	Sitaram Sah

(ii) The description of the suit premises in Title
(Eviction) Suit No. 29 of 2008 (Civil Revision No. 97 of 2013):-

A pucca shop having plaster brick built wall
with Khapra Posh roof over it attached with
verandah located at Sardhari Lal lane,
Handipatti, Sujaganj bearing holding no. 5
recorded in Khata No. 368, plot no. 212 (part)
present ward no. 15, town and district
Bhagalpur, which is bounded as follows:-

North	Municipal Lane
South	Katra of Vijay Khandelwal @ Vijay Gupta and Boggy Shanker Gupta
East	Shop of Vijay Khandelwal @ Vijay Gupta
West	Raju Kejriwal's double storied building



(iii) The description of the suit premises in Title (Eviction) Suit No. 30 of 2008 (Civil Revision No. 100 of 2013):-

A shop premises with khapraposh over it bearing old holding no. 6 situated in ward no. 4 (old) and then 15, Sardhari Lal lane, Handipatti, Sujaganj, P.S. Kotwali bearing part of Municipal Town Survey plot no. 212 recorded under Khata No. 368 in town and district of Bhagalpur, bounded as follows:-

North	Municipal Lane
South	Baggy Shankar Gupta
East	Shop of Narayan Sah Singheshwar Sah
West	Shop of Vijoy Khandelwal @ Vijoy Gupta

8. The further case of the plaintiff is that the plaintiff is holding the suit premises for the benefit, use and occupation of retired husband to set him in business, the suit property, is most suitable for business purpose, as such, the plaintiff requires the suit premises reasonably and in good faith. It is further contended that taking into account the wholesale business as stated above, to be commenced, partial eviction of the suit premises will not satisfy the requirement of the plaintiff.



9. On the other hand, the defendants-petitioners after getting leave to contest filed their written statement in their respective eviction suits in which he questioned the maintainability of the suit on the ground that suit is barred by law of limitation and the suit is also hit by Section 34 of the Specific Relief Act as a declaration of personal necessity is must and without the said declaration in specific nature, relief cannot be granted to her and she does not seek any relief for benefit and reasonable requirement and simply prayer for eviction for personal necessity is unwarranted. The defendants-petitioners further contended that the demolition of the suit premises, a pre-conditioned to bring the suit property along with other adjoining shop for alleged purpose and same prayer has not been made in the plaint. It is submitted that the father of the plaintiff along with his brother holds a suitable place in prime business place at Bhagalpur bearing plot no. 268, 287 of khata no. 76 and the plaintiff has inherited the share of his father in the said plot and in the knowledge of the defendants, the husband of the plaintiff has completed all primary work to locate a petrol pump and plaintiff has other property in Tartarpur chowk bearing plot no. 828 khata no. 73 which is also a suitable place for the so-called business of the plaintiff's husband. It is further denied that for the proposed project (wholesale business), the



plaintiff has either any sanctioned plan or approval of the same from the competent authority as proof of the alleged project. So, the entire case of the plaintiff for the alleged personal necessity does not hold.

10. The pleadings of the parties were considered by the trial court and the following issues were settled in each aforesaid eviction suits:-

In Title (Eviction) Suit No. 28 of 2008, the following issues were framed:-

- (i) Is this suit as framed is maintainable?*
- (ii) Has the plaintiff got any cause of action for the suit?*
- (iii) Is the suit hit by Section 34 of the Specific Relief Act?*
- (iv) Whether the plaintiff require the suit premises bonafidely and in good faith to engage her husband in business?*
- (v) Whether the requirement of the plaintiff can be satisfied by partial eviction of the tenanted premises?*
- (vi) Is the plaintiff entitled for a decree of eviction as prayed?*



(vii) To what other relief/reliefs if any, the plaintiff is entitled?

In Title (Eviction) Suit No. 29 of 2008, the following issues have been framed:-

(i) Is the suit as framed is maintainable?

(ii) Has the plaintiff got any cause of action for the suit?

(iii) Whether the plaintiff require the suit premises bonafidely and in good faith to engage her husband in business?

(iv) Whether the requirement of the plaintiff can be satisfied by partial eviction of the tenanted premises?

(v) Is the plaintiff entitled for a decree of eviction as prayed?

(vi) To what other relief/reliefs, if any, the plaintiff is entitled?

In Title (Eviction) Suit No. 30 of 2008, the following issues have been framed:-

(i) Is the suit as framed is maintainable?

(ii) Has the plaintiff got any cause of action for the suit?



(iii) Whether the plaintiff require the suit

premises bonafidely and in good faith to

engage her husband in business?

(iv) Whether the requirement of the plaintiff can

be satisfied by partial eviction of the tenanted

premises?

(v) Is the plaintiff entitled for a decree of eviction

as prayed?

(vi) To what other relief/reliefs, if any, the

plaintiff is entitled?

11. In all the eviction suits, the relationship of landlord and tenant between the parties to the civil revision applications is not in dispute, rather, the same is admitted by the defendant-petitioners in the suits as well as in the present civil revision applications.

12. In Title (Eviction) Suit No. 28 of 2018, the plaintiff, in support of her claim on the aforesaid issues, produced six witnesses. On the other hand, the defendants produced seven witnesses. In addition to the said aforesaid evidence, the plaintiff produced four documentary evidences. The defendants have also led documentary evidence, which is Exhibit A-A/1 (certified copy of khatiyan).



13. In Title (Eviction) Suit No. 29 of 2008 and Title (Eviction) Suit No. 30 of 2008, the plaintiff has examined altogether five witnesses and also adduced four documentary evidence. On the other hand, the defendants produced four witnesses. Defendants have not led any documentary evidence.

14. Upon perusal of the pleadings and evidence of the parties, the learned court below, arrived at the following findings, decreed the suit on contest without cost by its judgment and decree dated 30.03.2013 and directed the defendants to vacate the suit premises (shop) and hand over the vacant possession to the plaintiff, which are as follows:-

(i) The plaintiff has personal necessity for the suit premises and the suit shop is suitable for the said business.

(ii) The defendants have nowhere pleaded that by way of partial eviction, her requirement could be fulfilled. The witnesses of the defendants are also silent with regard to partial eviction. Onus is on the defendants to make such statement and prove it by valid evidence. The defendants have not been able to prove it, the requirement of the plaintiff is for setting up a large scale business by constructing a three



storied building. Defendant Witness (hereinafter referred to 'D.W.') no. 3 in Title (Eviction) Suit No. 28 of 2008 in paragraph 11 of his cross-examination has stated that the suit shop would be 10 feet X 7 feet, and in front of the shop in the northern side, there is a *Gali* of 3 feet. D.W. no. 5 in his evidence in paragraph 13 has stated that the suit shop is 8 feet X 10 feet. Thus, it appears that the suit shop comprises of a smaller area and considering a large scale business of plaintiff, partial eviction of the defendants from the suit premises will not serve the purpose of the plaintiff.

(iii) The plaintiff has got bonafide personal necessity for setting up a business.

In Title (Eviction) Suit No. 29 of 2008, D.W. 4 in his cross-examination has stated that the total area of all the four shops is about 1830 square feet. The area of all the four shops is 2313 square feet. P.W. 3 in his cross-examination said that the area of the suit shop is 600 square feet, and considering the large scale business of plaintiff, the partial



eviction of the suit premises would not satisfy the requirement of the plaintiff.

In Title (Eviction) Suit No. 30 of 2008, in paragraph 5 of the plaint, it has been stated with regard to fair fixation of rent that the total area of the shop premises shown to measure 444.78 square feet and verandah measures 101.2 square feet. Total area comes to 546.03 square feet. The suit shop comprises of the small area and considering the large scale business of the plaintiff, partial eviction of the defendants from the suit premises will not serve the purpose of the plaintiff.

(iv) The issue with regard to provision of Section 34 of the Specific Relief Act, the defendants have not led any evidence in this regard. Hence it is decided against the defendants.

(v) The suit as framed and filed is maintainable and the plaintiff has valid cause of action to suit and is entitled for the relief.

15. Aggrieved by the impugned judgment and decree passed in Title (Eviction) Suit No. 28 of 2008, Title (Eviction) Suit No. 29 of 2008 and Title (Eviction) Suit No. 30 of 2008 by learned



court below, the defendants of the respective suits have filed the aforesaid three civil revision applications.

16. From the perusal of the pleadings and evidence of the parties, it is apparent that it is not in dispute that the plaintiff is the owner of the suit premises and defendants of the respective suit were her tenant and hence, the relationship of the landlord and the tenant between the parties is an admitted fact due to which no issue on the said question was framed by the lower court below. The defendants-petitioners of the respective suit has not challenged the relationship of landlord and tenant between the parties before this court, rather, they have challenged the finding of the learned court below with regard to the issue of personal necessity and partial eviction. Hence, following points are to be considered and decided in this Civil Revision applications:-

(a) Whether the plaintiff has been able to prove her claim of personal necessity of the suit premises beyond all reasonable doubt?

(b) Whether the partial eviction of the tenant would satisfy the requirement of the plaintiff?

17. Heard Mr. Shashi Shekhar Dwivedi, senior counsel for the petitioners in Civil Revision No. 83 of 2013 and Mr. J.S. Arora, senior counsel for the opposite party in all three civil



revision applications as well as the learned counsel for the petitioner in Civil Revision No. 97 of 2013 and Civil Revision No. 100 of 2013.

18. Mr. Shashi Shekhar Dwivedi, learned senior counsel for the petitioner has submitted that the learned court below has not properly considered the evidence of the parties and therefore, the findings are vitiated. It has been contended that the plaintiff has not produced any sanctioned plan for the proposed building and therefore the plea of personal necessity is belied. It is submitted that the learned court below failed to consider that the plaintiff has other appropriate place for running a business for her husband. It is submitted that without measurement of the shop room, decree is not executable. There is no personal necessity of the plaintiff, except wish and desire to engage her husband. Her wish and desire cannot be her bonafide requirement. It is submitted that unless four shops are vacated, the said proposed building cannot be constructed. One title suit for eviction of one shop room is still pending. Further, finding on partial eviction is cryptic and arbitrary ignoring valuable evidence. It has been emphasized by the learned senior counsel for the petitioners that demolition of the suit premises for the purpose of construction of business complex is without sanction of map and the proposed



building/construction could not be said to be bonafide and reasonable. The learned senior counsel has placed reliance on the decision of the Hon'ble Apex Court in the case of ***Vijay Singh and Ors. Vs. Vijayalakshmi Ammal***, reported in (1996) 6 SCC 475. It is further submitted that the learned court below has failed to consider that the suit land is situated in a *Gali* and the proposed business of the plaintiff's husband cannot be opened in that *Gali* having its breadth 4 feet. He relied upon the evidence of D.W.-3 in Title suit No. 28 of 2008. The measurement of shop is 10 feet X 7 feet. D.W.-5 speaks about the measurement of shop is 8 feet X 10 feet. Learned counsel for the petitioner further submits that the requirement of road of the proposed building is 16 feet as per Rule 34 of Bihar Building Bylaws, 2014. In view of the smaller area of the front road, permission for construction cannot be granted.

19. Learned counsel for the petitioner in Civil Revision No. 97 of 2013 and Civil Revision No. 100 of 2013 has adopted the arguments of Mr. Shashi Shekhar Dwivedi, learned senior counsel for the petitioners in Civil Revision No. 83 of 2013.

20. On the other hand, Mr. J.S. Arora, learned senior counsel for the opposite party in all three civil revision applications has submitted that the plaintiff-opposite party has claimed bonafide personal requirement of the suit premises for her



husband, who retired from the Air force service and he wants to start business by constructing triple storied building in place of existing shops which are four in number. It is submitted that the defendant is also running the business of wholesale grain business. The husband of the plaintiff had been examined as P.W.-1 whereas the plaintiff herself has been examined as P.W.-2 besides other witnesses. It is submitted that defendants-petitioners have falsely contended that there is other available premises also to the plaintiff-opposite party for fulfilment of the needs and requirements of plaintiff-opposite party, but the said contention of the defendant-petitioners is not only incorrect but is legally unsustainable. It is settled law that even if plaintiff-landlord possess more than one property, then also the choice lies with the plaintiff exclusively to select any property out of those for fulfilment of plaintiff's needs and requirements. The tenant cannot dictate the landlord to select a particular property. The objection regarding partial eviction does not contain any substance since the plaintiff wants to construct a triple storied commercial building in place of existing shops, hence, there is no scope at all for the defendant-petitioners for contending about partial eviction. Objection with regard to plan having not been sanctioned for the purpose of construction of a building in place of existing shops



also carries no substance. It is apparent from the provision of law that if any plan is sanctioned by the sanctioning authority, it is for a limited period of three years, which may be extended maximum up to five years. Thereafter, the validity of the plan itself expires. If the landlord/owner is to make construction after that period, then he is required to get a fresh map sanction. Learned senior counsel for the opposite party further submits that the defendants have nowhere pleaded that by way of partial eviction, his requirement would be fulfilled. Since the tenant was running a grain shop, the fact that the premises was suitable for running a grain shop cannot be disputed. The learned counsel has placed reliance on the decision of the Hon'ble Apex Court in the case of ***D. Sasi Kumar Vs. Soundararajan*** reported in **(2019) 9 SCC 282**, in which the Hon'ble Court in para 10 has held as follows:-

“Since the tenant was running a metal shop, the fact that the premises was suitable for running a garment shop cannot be in dispute. That apart, what is also to be kept in view is, apart from the bona fide requirement of the landlord, the consideration relating to hardship of the tenant, even if kept in view, in the



instant case, the Rent Controller has referred to the cross-examination of the tenant who was examined as RW 1 wherein he has admitted that he has two buildings as business places in addition to the business being run in the petition schedule premises. Though he states that one floor is used as godown and the other is in the name of his wife, the fact remains that he is running the business in the other shop for the benefit of his family. In that circumstance, when the need of the landlord was weighed in the background of the fact that the tenant had another premises wherein he is carrying on the business, the Rent Controller as a statutory authority under the Act was of the opinion that the evidence available on record would be sufficient and recorded the satisfaction as provided under Section 10(3)(e) of the 1960 Act and arrived at the



conclusion that the landlord requires the premises for his bona fide occupation. Such conclusion while being taken note by the appellate authority has also received a similar consideration. In that light, the nature of findings as recorded by the High Court is not appropriate in the facts and circumstance of the present case.”

21. Learned senior counsel, in support of his contention, has also placed reliance on the decision of Apex Court in the case of ***Chandrika Prasad Vs. Umesh Kumar Verma*** reported in **2002 (1) PLJR(SC) 144**, and also in the case of ***Kasthuri Radhakrishnan and others Vs. M. Chinniyan and another*** reported in **(2016) 3 SCC 296**.

22. After considering the submissions made on behalf of parties and on perusal of the impugned judgment and materials on record, it is manifest that relationship of landlord and tenant is admitted between the parties. The plaintiff's case for the need of suit premises is for setting up a business of wholesale grains and others for her husband and defendants are also running the business of grains and for construction of three storied building for



the purpose of the said business after demolishing the entire shop. So far with regard to non-production of approved map is concerned, in this regard reliance has been placed in the case of **D. Sasi Kumar Vs. Soundararajan (Supra)**, wherein in paragraph 11, it has been held as follows:-

“It is no doubt true that as observed by the High Court the plan for construction and the financial capacity to construct has not been placed as evidence. However, as already indicated above, the nature of the requirement as stated by the landlord would be for running a garment shop which in any event could be run in the premises as it exists with minor alterations though the desire of the landlord is also to demolish and reconstruct. Therefore, in that circumstance, the mere non-production of the approved plan or the documents to indicate financial capacity at this juncture cannot be held fatal in the instant facts. That apart as indicated



above, the need of the landlord while being examined has been weighed in the background of the fact that the tenant owns two other premises and no hardship will be caused. Though the High Court has in that regard also recorded that no documentary evidence is placed, the fact of possession of alternate premises has been admitted by the tenant in his cross-examination. There can be no better proof than admission.”

23. It transpires from the impugned judgment that the learned court below has recorded the finding on the basis of scrutiny of evidence as led by the parties. During the course of submission, this court has not been persuaded to find perversity or unreasonableness in any manner in the same. There is no such pleadings by the defendants in the written statement that the personal necessity of the plaintiff as pleaded could be satisfied without demolition of the suit premises.

24. In view of the judgment of Constitution Bench of Apex Court in the case of **Kasthuri Radhakrishnan(supra)** the



revisional jurisdiction under the Rent Control Acts is circumscribed by limitations and the revisional court is only to see whether order for eviction is according to law or not. Their Lordships in the aforesaid judgment had observed as follows:-

*“.... So far as the issue pertaining to exercise of revisional jurisdiction of the High Court while hearing revision petition arising out of eviction matter is concerned, it remains no more res integra and stands settled by the Constitution Bench of this Court in **Hindustan Petroleum Corporation Limited vs. Dilbahar Singh** (2014) 9 SCC 78. Justice R.M. Lodha, the learned Chief Justice speaking for the Bench held in para 43 thus:*

“43. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the first appellate court/first appellate authority because on reappreciation of the evidence, its view is different from the court/authority below. The consideration of examination of the



evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that 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 as to 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 reappreciate or reassess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration 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...”

25. In the aforesaid facts and circumstances, this Court finds that the plaintiff-opposite party has been able to sufficiently prove that she has bona fide requirement of the suit premises for



starting business for her husband. The defendants have miserably failed to disprove the claim of the plaintiff by any cogent material. In that regard, findings of learned court below with regard to personal necessity is hereby affirmed.

26. So far the point of partial eviction is concerned, the learned court below had considered the said issue in para 12 of the impugned judgment.

27. It is also apparent from the materials on record as well as the admitted claims of the parties that neither the plea of partial eviction was taken by the defendants in their pleadings nor any evidence had been adduced by them to show that the defendants' partial eviction from the suit premises would satisfy the requirement of the plaintiff.

28. In view of the aforesaid discussion and decision of the Hon'ble Supreme Court as well as material on record, it is apparent that both the points raised by the defendant-petitioners with regard to personal necessity and partial eviction fail. This Court does not find any illegality or judicial error in the impugned judgment of the learned court below. This Court is not persuaded to hold that the judgment and order by the court below for eviction is not in accordance with law.



29. Accordingly, Civil Revision No. 83 of 2013, Civil Revision No. 97 of 2013 and Civil Revision No. 100 of 2013 are dismissed.

30. There is no order as to costs.

(Khatim Reza, J)

premchand/-

AFR/NAFR	NAFR
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