

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.27 of 2022

Govind Lal, aged about 83 years (male) Son of Late Sukhdeo Lal Resident of Panchmahal, Krishna Dwarika, P.O.- Chand Chaura, Police Station- Civil Line, District- Gaya.

... .. Petitioner/s

Versus

Kamal Kumar, Son of Late Narayan Lal Resident of Mohalla- Maulaganj, Kharkatta, P.O.- Chand Chaura, Police Station- Civil Line, District- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh, Advocate
For the Opposite Party/s : Mr. Rajib Ranjan Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

11 16-03-2023 This Civil Revision has been filed against the judgment and decree dated 18.05.2022 passed by the learned Munsif-I, Gaya, in Eviction Suit No. 3 of 2012, whereby the said eviction suit has been decreed.

2. Earlier, Civil Revision No. 57 of 2018 was filed by the petitioner against the judgment and decree dated 28.02.2018 passed by Munsif-I, Gaya in Eviction Suit No. 3 of 2012, by which the eviction suit was decreed. The said revision application was dismissed after hearing the parties and considering the materials available on record by this Court on 26.07.2019. The Hon'ble single Judge has held that since the learned court below has not considered and framed the issue of partial eviction, if personal necessity of landlord would be satisfied by the partial eviction of the suit premises and said



being mandatory under Section 11(1)(c) of Bihar Buildings (Lease, Rent & Eviction) Control Act, 1982. Consequently, the said Eviction Suit was remanded to the learned court below to frame an issue with respect to partial eviction of suit premises and grant opportunity to both the parties of leading evidence on the issue of partial eviction and decide the same within six months from the date of receipt/production of the copy of this order passed by this Court.

3. In compliance of the order dated 26.07.2019 passed in Civil Revision No. 57 of 2018, the learned trial court has framed an issue with regard to partial eviction which is as follows:-

“Whether the need and urgent requirement of plaintiff shall be satisfied from partial eviction of the defendant from suit premises?”

4. On the basis of issue framed by the trial court on the point of partial eviction, the plaintiff re-examined PW-3, PW-11 and PW-12 and adduced evidence on the point of aforesaid issue.

5. The defendant-petitioner also re-examined DW-5 for the same purpose.

6. During the course of hearing of the suit, the defendant incorporated a sketch map in his written statement through amendment.



7. The learned trial court after considering the evidence of plaintiff as well as defendant and materials on record has held that plaintiff had specifically pleaded in paragraph 11 of this plaint that he needed full suit premises and his need shall not be met it out by partial eviction. Testimony of witnesses has supported the claim of plaintiff. It is further held that the defendant did not adduce any material evidence to contradict the same. Map adduced by the defendant is not certified copy and genuineness of it has been disputed by the plaintiff. Learned court below has decreed the suit of eviction and has found that the suit premises is required by the plaintiff-opposite party and he has personal necessity for the same and the requirement of the suit premises cannot be satisfied by partial eviction from the suit premises.

8. Having considered the submissions made on behalf of the parties and the perusal of the impugned judgment, 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. So far the question of partial eviction is concerned, it is quite apparent that the plaintiff had pleaded that he had bonafide personal requirement for the entire premises but the defendant challenged the requirement of the plaintiff and pleaded that the same would be satisfied by partial



eviction also. It is a settled law that once personal necessity is proved, the onus shifts on the tenant to prove that partial eviction shall satisfy the personal necessity of the plaintiff. The defendant has failed to prove that partial eviction shall satisfy the personal necessity of the plaintiff.

9. In view of the judgment of the Constitution Bench of the Hon'ble Apex Court in the case of **Kasthuri Radha Krishnan vs. M. Chinniyar** reported in (2016) 3 SCC 296, the revisional jurisdiction under the Rent Control Act is circumscribed by limitation and revisional court is only to see whether order of eviction is according to law or not. Their lordships have 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.*

The Division Bench held in paragraph 43 which reads as follows:-

“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 or 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....”

10. In the facts and circumstances of the case, this Court is of the view that the impugned judgment and order of the learned court below on the point of partial eviction does not require any interference by this Court.

11. Accordingly, this revision application is dismissed.

(Khatim Reza, J)

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