

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble **Justice Harish Tandon**

And

The Hon'ble **Justice Prasenjit Biswas**

SA 41 of 2023

With

CAN 1 of 2023

Smt. Baby Muhuri

-Versus-

Smt. Anima Ghosh

For the Appellant : **Mr. Rwitendra Banerjee,
Ms. Prasenjit Debnath.**

Hearing Concluded on : **06.11.2024**

Delivered on : **03.12.2024**

Prasenjit Biswas, J:-

1. Both the Courts have decided the case against the appellant/defendant.
2. This appellant/defendant is a tenant in respect of a shop room under the plaintiff/respondent for a monthly rent of Rs. 265/-. The plaintiff/respondent runs a ceremonial house in the suit building and she requires the suit room for

her own use and occupation as the said ceremonial house runs without any effective office room and for such reason she is facing difficulty in scaling the business. The plaintiff/respondent requested the defendant/appellant to vacate the tenanted shop room but she did not vacate the suit premises even after receipt of notice. Finding no other alternative the plaintiff/respondent instituted a suit before the Trial Court with a prayer for eviction of the appellant/defendant from the suit premises. It is specifically contended by the plaintiff/ respondent that the said tenanted shop room is reasonably required by her for running ceremonial house situates in the suit premises.

3. Defendant appeared before the Trial Court and contested the suit by filing written statement denying all the allegations as stated by the plaintiff. It is the specific case of the defendant that there are other vacant shop rooms in the ground floor of the premises but the suit has been instituted by the plaintiff with an ulterior motive and for evicting her from the suit room. It is further averred by the defendant that the notice served to him in connection with this case is bad in law and it was not properly served to terminate the tenancy. Learned Counsel appearing on behalf of the appellant submits that the suit was decreed only on the ground of reasonable requirement without any recourse of any local inspection of the suit property and as such it cannot be said that the said tenanted room is reasonably required by the plaintiff/respondent.

4. It is admitted position that this plaintiff/respondent runs a ceremonial house in the suit room. It is also admitted by the plaintiff that there are other

shop rooms in the said premise. It is claimed by the plaintiff/respondent that for the purpose of running this ceremonial house she needs that tenanted shop room to escalate his business. The tenanted shop room has entry and exist which the other shop rooms of the premises are deprived of and for such purpose the plaintiff/respondent wants to run her office from the said suit shop room. It appears from cross examination of DW- 1 in which she admitted that amongst all other shop rooms in the premise the tenanted shop room can be accessed from the main road as well as from the road side. So, it is evident from the cross examination of DW-1 that the defendant herself admitted about the two way entries to his shop room which is not available to other shop rooms of the premises. The tenanted shop room is distinguishable and is well defined by its name and it is identifiable both from the notice as well as from the schedule of the plaint.

5. In case of eviction on the ground of reasonable requirement it is the prerogative of the land lord whom he wants to evict if it is found that there are other multiple tenants in the premises and the defendant/tenant has nothing to say in it. The expression “reasonable requirement’ postulates that there must be an element of need as opposed to a mere desire or wish, that distinction between the desire and need should doubtless be kept in mind but not so as to make genuine need as nothing but a desire and that the connotation of the terms “need” and “requirement” should not be artificially extended nor its language so unduly stretched or strained so as to make it impossible or extremely difficult for the landlord to get a decree for eviction. In

the instant case the plaintiff/respondent runs a ceremonial house in the premises and now reasonably requires the tenanted shop room for setting up an office room which has two entries one from the road and another from the road side and as such the said suit room is the best room to set up an office room for the ceremonial house.

6. It is said by the learned Counsel appearing on behalf of the appellant that as no legal inspection is preferred by the respondent/plaintiff to show the portion in her occupation and unless and until such inspection of the premise is done it cannot be concluded/ascertained the question of reasonable requirement of the plaintiff/respondent. If the shop room is distinguishable having its two entries and is well defined then such legal inspection is not really required. The plaintiff runs a ceremonial house in the premises and the defendant is in occupation of the tenanted room. So, the requirement of the plaintiff of the said tenanted room for setting up office room to facilitate her business can be said to be reasonably required by her and such requirement of the plaintiff/respondent can only be achieved by eviction of the defendant of the tenanted shop room. Both the Courts below have observed that the plaintiffs/respondents have reasonable requirement of the premises and the purpose and extent of reasonable requirement of the plaintiff having been proved before the learned Trial Court and affirmed by the learned First Appellate Court.

7. We, thus, do not find any merit in the instant appeal nor involvement of any substantial question of law. Accordingly, the appeal is dismissed.

8. There shall, however, be no order as to costs.
9. Urgent Photostat certified copy of this order, if applied for, be given to the parties on payment of requisite fees.

I agree.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)