

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.192 of 2018

Md. Arif, Son of Abdul Khalique, Resident of Village/ Mohalla- Bichali,
Town- Jehanabad, P.O. and P.S. and District-Jehanabad.

... .. Petitioner/s

Versus

1. Anjani Kumari, Widow of late Indrajeet Prasad, Resident of Town Jehanabad Mohalla- Chhoti Sanghat, New Sabjee Market, P.O. and P.S. Jehanabad, District- Jehanabad.
2. Abhijeet Chandra, Son of late Indrajeet Prasad, Resident of Town Jehanabad Mohalla- Chhoti Sanghat, New Sabjee Market, P.O. and P.S. Jehanabad, District- Jehanabad.
3. Sanjeet Chandra, Son of late Indrajeet Prasad, Resident of Town Jehanabad Mohalla- Chhoti Sanghat, New Sabjee Market, P.O. and P.S. Jehanabad, District- Jehanabad.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Abbas Haider, Advocate
		Mr. Ranjay Kumar Singh, Advocate
		Mr. Wasi Mohammad, Advocate
		Mr. Ranjay Kumar Singh
For the Opposite Party/s :		Mr. Uday Narayan Singh, Advocate
		Mr. Rajesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
CAV ORDER

17 24-07-2025 Heard Mr. Abbas Haider, learned counsel for the petitioner assisted by Mr. Ranjay Kumar Singh, Advocate and Mr. Uday Narayan Singh, learned counsel for the opposite parties.

2. This Civil Revision application has been filed under Section 14(8) of the Bihar Building (Lease, Rent & Eviction) Control Act, 1982 (hereinafter referred to as "The



Act") against the judgment and decree dated 13.03.2018 passed in Eviction Suit No. 19 of 2010 by learned 1st Additional Munsif, Jehanabad whereby the learned trial court decreed the suit on the question of requirement of the suit premises by the plaintiff/opposite parties for their personal non-residential use.

3. The aforesaid impugned judgment and decree has been passed in the light of the remand order dated 07.11.2017 passed by a Bench of this Court in Civil Revision No. 36 of 2017. The said impugned judgment was assailed only on the ground of lack of findings supported by the reasons holding that the respondents were in need of suit premises for running their own business.

4. The said Civil Revision application no. 36 of 2017 was filed by the defendant/petitioner against the impugned judgment and decree dated 25.11.2014 passed by the learned 1st Additional Munsif, Jehanabad in Eviction Suit No. 19 of 2010 / 46 of 2014 whereby the suit was decreed by the trial court on the ground that the suit premises are reasonably and in good faith required by the plaintiff/opposite parties for their occupation and it further held the plaintiff/opposite parties to be the owners of the suit premises and also existence of relationship of landlord and tenant between the petitioner and



the plaintiff/opposite parties. While assailing the impugned aforesaid judgment and decree, the defendant/petitioner raised a very short issue with regard to the requirements of the suit properties and also raised a question that there was no discussion as to how the plaintiff/opposite parties required the suit premises reasonably and in good faith for their own occupation. After considering the materials on record as well as judgment and decree passed on 25.11.2014 in the present suit, a Bench of this Court has held that the court below has framed Issue no. 7 as *"Are the plaintiffs in need of the suit premises for their personal use and repairing?"* The said issue has been decided with Issue Nos. 5 & 6. Further the Bench of this Court has held that there is no discussion at all based on the evidence that the plaintiff/opposite parties reasonably required the suit premises for their personal non-residential use. There are discussions on the questions of title of the respondents and relationship of landlord and tenant between the petitioner and the plaintiff/opposite parties. As a matter of fact, the relationship of landlord and tenant between the petitioner and plaintiff/opposite parties is not at all in dispute. Hence, the Bench of this Court remanded the matter to the trial court for considering the **only question of the requirement of the suit**



premises by the respondents for their personal non-residential use, since as on the date, there is no dispute of existence of landlord-tenant relationship between the contesting parties. It was further directed to the court below to expeditiously decide Issue No. 7 with reference to the evidence already adduced at the trial, preferably within a period of 3 months from the date of communication of the present judgment and decree.

5. In view of the direction passed in Civil Revision No. 36 of 2017, the learned lower court has considered and decided the Issue No. 7 on the basis of pleadings and materials available on record in details.

6. Learned trial court has discussed the evidence adduced by the parties especially on the issue of personal necessity and bona fide requirement and also requirement of the repairing of the suit premises. On this point, the learned trial court has recorded his findings and considered the evidence adduced on behalf of the plaintiffs i.e. P.W.-1 & P.W.-2 and written statement of the defendant as well as evidence of D.W.-1. It further recorded the case of the plaintiffs that plaintiff nos. 2 & 3 have graduated but they are unemployed. They tried too much to have any employment either in government office or in



any private firm, but they remained unsuccessful. Plaintiff no. 2 has started business in eastern shop and plaintiff no. 3 is still sitting idle for want of any engagement. Plaintiff no. 3 having lost the chance of any employment has made up his mind to start his own business in the suit premises and for this purpose he has been provided fund by his maternal uncle. It is further case of the plaintiffs that there is no other suitable place available to plaintiff no. 3 than the suit premises. For the purpose of aforesaid business, the suit premises is suitable place being in the heart of market of Jehanabad Town. So far condition of the suit premises is concerned, the plaintiffs pleaded that the suit premises is old one and most part of it is damaged. The plaintiffs want to demolish the shop after getting it vacated from the defendant and construct a new one in its place. The suit premises is small one and the business which the plaintiffs want to start cannot be done in the small portion. The vacant possession of the total area of the suit premises can only fulfill the business need of the plaintiffs.

7. After considering the evidence of the parties, the learned trial court has held that the plaintiffs' witnesses stated that on the eastern side, plaintiff no. 2 is doing his business and plaintiff no. 3 is helping hand of the plaintiff no. 2 in his



business. On that point, defendant did not adduce any evidence to contradict the case of the plaintiffs. Moreover, plaintiff no. 2 specifically stated in his evidence that his brother Sanjeet Chandra wants to carry his business and maintain himself as well as his mother. There is no suitable place available to the plaintiff no. 3 than the suit premises for the aforesaid business. The suit premises is quite suitable place for the aforesaid business. The learned court after considering the evidence adduced by the parties held that plaintiff no. 3 has personal necessity for the suit premises and the suit shop is suitable for the said business. The plaintiffs have got bona fide personal necessity for setting up a business. So far question of repairing is concerned, learned lower court after considering the pleadings as well as materials on record held that since the defendant was inducted in the suit premises in the year 1959 i.e. 59 years ago, there is no material available on record to show that any repair work was done in past. It has also been noted that the defendant admitted that the shop, in question, is a part of residential house in which the plaintiffs are residing. The learned lower court further held that the requirement for repairing or reconstruction is established in view of construction of 59 years old building. If not repaired in time, the building as well as the suit premises



may collapse of any time which is dangerous. Accordingly, on the basis of above discussion, Issue No. 7 has been answered in favour of the plaintiffs. It was directed to the defendant/petitioner to vacate the suit premises within two months.

8. Aggrieved by the impugned judgment and decree passed in Eviction Suit No. 19 of 2010, the petitioner has filed the present Civil Revision Application.

9. Learned counsel for the petitioner has submitted that the learned court below has not properly considered the evidence of the parties and therefore the findings on the Issue No. 7 is vitiated. He also raised objection with regard to the title of the plaintiffs and relationship of the landlord and tenant between the plaintiffs and the defendant. Learned counsel for the appellant emphatically submitted that earlier Civil Revision No. 36 of 2017 was filed against the judgment and decree dated 25.11.2014. A Bench of this Court interfered in the judgment and decree dated 25.11.2014 passed in the said Eviction Suit and the matter was remanded to the court below for considering the only question of requirement of the suit premises by the plaintiff/opposite parties for their personal non-residential use and accordingly set aside the judgment and decree dated



25.11.2014 meaning thereby, the entire findings were set aside and also submitted that the Eviction Suit is bad for non-joinder of the Bihar Religious Trust Board as defendant in the suit. It has been further submitted that learned trial court failed to appreciate that the disputed land is recorded in the name of State of Bihar as Gairmazarua Malik in the Cadestral Survey. The plaintiffs have not produced any evidence on record to show that how they became owner of the suit property. The learned court below wrongly decided the *bona fide* requirement of the plaintiffs.

10. On the other hand, Mr. Uday Narayan Singh, learned counsel for the plaintiff/opposite parties has submitted that the plaintiff/opposite parties have claimed bona fide personal requirement for the suit premises for plaintiff no. 3. The question of ownership and relationship of landlord and tenant has already been decided in earlier Civil Revision Application No. 36 of 2017. The judgment and decree was passed on 25.11.2014 in Eviction Suit No. 19 of 2010, the matter was remanded only on the Issue No. 7 and the aforesaid Civil Revision was field assailing only on the ground of lack of findings supported by reasons holding that the plaintiffs/opposite parties were in need of suit premises for



running their own business. On the direction of this Court, the trial court is duty bound to decide the said issue according to law. After detailed discussion and considering the evidence adduced by the parties and materials on record, it has been held that the plaintiffs have *bona fide* requirements for the suit premises which also need repairing. Since the suit premises is 59 years old, it requires repairing. It has been prayed that there is no requirement for interfering in the said findings.

11. After considering the submissions made on behalf of the parties and on perusal of the impugned judgment and decree and materials on record, it is manifest that the relationship of landlord and tenant between the petitioner and opposite parties is not at all in dispute. This finding was noted in the remand order dated 07.11.2017 passed in Civil Revision No. 36 of 2017. The question of *prima-facie* title of the plaintiffs/opposite parties has already been discussed in the aforesaid order dated 07.11.2017.

12. In view of the order dated 07.11.2017 passed in Civil Revision No. 36 of 2017, the learned trial court has rightly considered the Issue No. 7 only. Other issues are already affirmed by the aforesaid remand order dated 07.11.2017. The remand order is only for limited purpose on the findings of



personal necessity of the suit premises and the requirements for repairing of the suit premises.

13. It transpires from the impugned judgment and decree that the learned court below has recorded the findings (Issue No. 7) on the basis of scrutiny of evidence as laid 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 plaintiffs as pleaded could be satisfied without repairing or demolishing of the suit premises. It is also evident from the materials on record that plaintiff no. 3 is unemployed and still sitting idle for want of any engagement. He wants to establish his own business in the suit premises. For this purpose, he has been provided fund by his maternal uncle. The suit premises is suitable place for business. The full area of the suit premises can only satisfy the business need of the plaintiff no. 3.

14. In view of the judgment of Hon'ble Apex Court in the case of *Kasthuri Radhakrishnan and Ors. Vs. M. Chinniyan & Another* reported in (2016) 3 SCC 296, the revisional jurisdiction under the Rent Control Act is circumscribed by limitations and the revisional court is only to



see whether order for eviction is according to law or not. There Lordships in the aforesaid judgments 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...”

15. In the aforesaid facts and circumstances, this Court finds that the plaintiff/opposite parties have been able to sufficiently prove that they have *bona fide* requirement of the suit premises for starting business for plaintiff no. 3. Defendant has miserably failed to disprove the claim of the plaintiffs by any cogent materials. The findings of learned court below with regard to the personal necessity is hereby affirmed.

16. In view of the aforesaid discussion and decision of the Hon’ble Supreme Court as well as materials on record, it is apparent that the point raised by the defendant/petitioner with regard to the personal necessity fails. This Court does not find any illegality or judicial error in the impugned judgment of the learned trial court. This Court is not persuaded to hold that the judgment and decree passed by the court below for eviction is not in accordance with law.

17. Accordingly, Civil Revision Application is



dismissed.

18. There is no order as to costs.

(Khatim Reza, J)

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