

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.166 of 2024

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Md. Shaheed Alam Son of Mohammad Nashir Resident of Mohalla- Boring
Canal Road, Flat No.- 43, Ashray Kathura Apartment, Raiji Ki Gali, Patna.

... .. Petitioner/s

Versus

1. Bijay Pandey Son of Late Ram Rekha Pandey Resident of Village-
Bishunpur, P.S.- Barhara, District- Bhojpur, (Ara).
2. Mr. Arun Kumar Pandey, Son of Late Ram Rekha Pandey Resident of
Village- Bishunpur, P.S.- Barhara, District- Bhojpur, (Ara).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jai Kishore Sharma, Advocate
For the Respondent/s : Mr. Rakesh Kumar Sharma, Advocate

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**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

CAV ORDER

9 19-12-2025 This Civil Revision application no: 166 of 2024 has

been filed under Section 14 (8) of the Bihar Building (Lease, Rent
and Eviction) Control Act, 1982 (hereinafter referred to as “BBC
Act”) against the judgment and decree dated 17.10.2024 passed by
learned Shri Upender Shah, civil Judge (Sr. Division VIII), Patna in
Eviction Suit No. 66 of 2022 whereby and whereunder the Learned
trial Court allowed the eviction suit filed by the
Plaintiffs/respondents directing the defendants/petitioner to vacate
the suit premise mentioned in Schedule-I of the plaint within sixty
days from the date of order, failing which the respondents shall be at
liberty to obtain eviction of the petitioner through the process of the
Court and the costs incurred over the same shall be recoverable from
the defendant.



2. Heard learned counsel for the petitioner and learned counsel for the opposite parties.

3. Briefly stated, the facts of the case are that the respondents are the owner and the landlord of the premises, having a building situated at ground floor of premises area in approx about 1500 sq.ft. bearing holding no. 7/12 (old), present holding no. 12E/G-5, circle no. 243 of Patna Municipal Corporation at mohalla- Telegraph Colony, near Income Tax Golamber at Atul Guljar Apartment detailed & described in schedule 1 of the plaint. Petitioner is the tenant/lessee in respect of said Schedule-I premises for the fixed period of six years w.e.f. 04.08.2017, on certain terms & conditions as incorporated in the lease deed dated 04.08.2017, duly executed in favour of the petitioner by the respondents. The said premises had been taken on for storage of TVS motorcycle as godown and for small scale workshop of TVS motorcycle business and not to sub-let to anybody or other work. Further, the case of the respondents is that as per clause-1 of lease deed the rent of lease hold premises payable by petitioner to the respondents every month regularly by 05 day of each succeeding month which is Rs. 26,000/-. Further condition is that the amount of rent payable by petitioner is liable to be enhanced by 5% per year from the date of the commencement of tenancy. The Petitioner is required to observe all the terms and conditions of the lease for continuation of lease and those terms include regular payment of rent as well.



4. Despite the said terms of tenancy, the petitioner stopped payment of rent since April 2020, as such on account of violation and non-observance of the term no. 1 of deed lease stands terminated and does not continue. On account of default in payment of rent for a period of more than two months i.e., for the month of April 2020 to till date the petitioner has become defaulter in payment of rent and in view of provisions of Section 11 (1) (d) of the B.B.C. Act, 1982 became liable to be evicted from lease hold premises but respondent is not seeking this ground for eviction of petitioner on the ground of default. Respondents have also asserted that they are in dire need of the residential premises for their own residence/occupation, because lessor Arun Kumar Pandey has no other residential house of his own to live in Patna.

5. As respondent no.2 Arun Kumar Pandey is practicing lawyer in Patna High Court. At present, respondent Arun Kumar Pandey is living in rented house at "Kunti Kunj" Budh Nagar, Road No.3, South Chandmari Road, Kankar Bagh, Patna, and the landlord of Kunti Kunj has directed the respondent Arun Kumar Pandey to vacate Kunti Kunj house within three months, therefore, respondent needs suit house described in Schedule-I for their own residence & occupation. It is also case of the respondents that they need the suit house reasonably and in good faith, for their Bonafide use & occupation and to pursue his legal profession from suit house, it is relevant to state here that partial eviction of petitioner from suit



premises shall not satisfy the need of respondents. Respondents have requested the petitioner several times to vacate the suit house and arrange alternative accommodation for him in the month of November, 2020. Despite the requests of respondents, the petitioner has stopped payment of rent since April 2020, and has filed several false cases against respondent at different forum.

6. Further, case of the respondents is that the respondents have revoked the lease deed dated 04.08.2017 and tenancy with the petitioner by giving a legal notice through his Advocate Sri Rajesh Kumar on 18.04.2022 and requested the petitioner to vacate the suit house, but of no avail. Ultimately the respondents have been left with no other option than to take recourse of law for eviction of petitioner from the premises in suit only on the ground of Bonafide personal necessity under Section 11(1) (c) of B.B.C. Act hence the instant suit has been filled.

7. Learned counsel for the petitioner submits that he was inducted into the suit premises on 01.08.2017 on a month-to-month tenancy at a mutually agreed rent of Rs. 25,000/- per month. The premises were taken specifically for commercial purposes, namely for use as a godown for storage of TVS motorcycles and for running a small-scale workshop connected with his TVS motorcycle business. He further submits that although the respondents subsequently requested him to sign an agreement/lease deed dated 04.08.2017 purportedly for a period of six years, the said document



was never registered in accordance with law and, therefore, did not create any valid long-term lease or confer any enforceable contractual rights. According to the petitioner, in view of Sections 105 and 107 of the Transfer of Property Act, 1882 read with Section 17 of the Registration Act, 1908, the alleged unregistered lease deed for a period exceeding eleven months is legally inadmissible for enforcing its terms, and the tenancy continued to remain a month-to-month tenancy.

7.i. Learned counsel for the petitioner further submitted that he has always been a regular and bona fide tenant and has never committed any wilful default in payment of rent. Even during the severe financial disruption caused by the nationwide lockdown during the Covid-19 pandemic in the year 2020, when his godown and workshop could not be operated, the petitioner continued to pay the agreed monthly rent of Rs. 25,000/-. The rent was deposited directly into the bank account of Respondent No. 1, Mr. Vijay Pandey, strictly in accordance with the directions given by the landlords, thereby demonstrating the petitioner's bona fides and continued compliance with his obligations as a tenant. He asserts on the point that in July 2022, the respondents instituted Eviction Suit No. 66 of 2022 alleging, inter alia, default in payment of rent; however, significantly, no relief of eviction was claimed on the ground of default. Instead, the eviction was sought primarily on the ground of alleged personal necessity of Respondent No. 2. The



petitioner contends that the plea of default was falsely introduced only to prejudice the court, despite the fact that the respondents were regularly receiving rent without protest.

7.ii. Learned counsel for the petitioner categorically denied the existence of any valid registered lease for six years and specifically pleaded that the tenancy was purely on a month-to-month basis. He further contended that the eviction suit was frivolous, misconceived and filed only to evict him without satisfying the mandatory statutory requirements under Section 11(c) of the BBC Act, 1982. He also asserted that the respondents had failed to establish any bona fide or subsisting personal necessity as required under law. He further submitted that the claim of personal necessity put forth by the respondents was inconsistent, shifting and not supported by pleadings or evidence. Initially, the respondents claimed that Respondent No. 2 was residing in a rented house at Kankarbagh and had been asked by his landlord to vacate the premises within three months. However, during the pendency of the suit and without any amendment of the plaint, the respondents started projecting a new case by asserting that the daughter of Respondent No. 2, who is a doctor working at IGIMS, intended to open a clinic in the suit premises. He further contended that such a plea, not having been pleaded in the plaint, could not have been legally considered by the learned trial court.

7.iii. Learned counsel for the petitioner further



alleges that during the pendency of the eviction suit, the respondents adopted coercive and unlawful methods to force him to vacate the premises, including attempts to interfere with his peaceful possession and disconnection of essential amenities such as electricity and water supply. According to the petitioner, these acts clearly demonstrate the *mala fide* intention of the respondents and their attempt to overreach the due process of law. He further submitted, that the eviction suit was filed and decreed on the ground of personal necessity; however, the learned trial court failed to record any clear and categorical finding that such personal necessity existed on the date of final disposal of the suit. Learned counsel pointed out that the original plea of personal necessity was confined only to Plaintiff No. 2, who had claimed that his landlord had asked him to vacate the rented premises within three months. It was contended that there is no finding by the learned trial court as to where Plaintiff No. 2 resided thereafter, and that evidence on record indicates that he was residing at Ashiyana Nagar, which clearly negates the pleaded case of bona fide personal necessity.

7.iv. It was also contended that the learned trial Court gravely erred in taking into consideration an altogether new case of personal necessity relating to the daughter of Plaintiff No. 2, who was alleged to be intending to open a clinic in the suit premises, despite the fact that there was no such averment in the plaint and no amendment had been sought or allowed. According to the petitioner,



consideration of such an unpleaded case is contrary to settled principles of law. It was lastly submitted that although allegations of default in payment of rent were made in the plaint, eviction was not sought on that ground, and the petitioner had, in fact, regularly paid rent, including during the period of the Covid-19 pandemic. It was, therefore, contended that the impugned judgment, having been passed without proper appreciation of the pleadings, evidence and settled legal principles, suffers from illegality and material irregularity and is liable to be set aside.

8. Learned counsel for the respondents submits that the eviction suit under Section 11 (1) (c) of the BBC Act, 1982 was rightly decreed by the learned trial Court on the ground of bona fide personal necessity. The relationship of landlord and tenant, rate of rent, and occupation of the suit premises by the defendant are all admitted facts. The plaintiffs/respondents specifically pleaded in the plaint that the suit premises is reasonably and in good faith required for their own residence and professional use, as plaintiff no. 2/respondent no.2 is a practicing advocate at the Patna High Court and has no residential house of his own in Patna. It was further pleaded, even by amendment prior to framing of issues, that partial eviction would not satisfy the bona fide requirement of the plaintiffs.

8.i. He further contended that the Trial Court, after framing specific Issue No. IV on bona fide necessity and partial eviction, thoroughly appreciated the oral and documentary evidence



adduced by the plaintiffs through five witnesses and the exhibited documents. Based on such evidence, the Trial Court recorded a categorical finding that the plaintiffs' need is genuine, reasonable, and in good faith, and that partial eviction would not serve their purpose. These findings are based on evidence and are neither perverse nor illegal and therefore do not warrant interference in revisional jurisdiction.

8.ii. Learned counsel for the respondents further submitted that the defendant failed to raise any plea regarding partial eviction either in the written statement or during cross-examination of the plaintiffs' witnesses, nor did he lead any evidence to show that the plaintiffs' requirement could be satisfied by partial eviction. In law, once the landlord proves bona fide personal necessity, the onus shifts upon the tenant to plead and prove that such need can be met by partial eviction. Having failed to do so at the trial stage, the defendant cannot be permitted to raise the issue for the first time at the revisional stage.

8.iii. On the issue of subsequent development relating to the daughter of plaintiff no. 2, it was submitted that the primary ground of eviction remains the personal necessity of plaintiff no. 2 himself for residence and professional use. Any subsequent development regarding the daughter's qualification as a doctor only strengthens the already pleaded and proved requirement and does not vitiate the decree. Learned counsel for the respondents relied upon



several judgments of this Court reported in *PLJR 2005(3) 719*, *PLJR 2013(2) 491*, *PLJR 2005(3) 19* and *PLJR 2016(4) 20*, wherein co-ordinate bench of this Court consistently held that the plea of partial eviction must be specifically raised and proved by the tenant, and that revisional courts cannot reappreciate evidence or act as a second court of appeal. It was emphasized that the revisional jurisdiction is limited, as laid down by the Constitution Bench in *Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh* reported in *(2014) 9 SCC 78*.

8.iv. In view of the above submissions, the learned counsel for the respondents prayed that the Civil Revision be dismissed, as the impugned judgment and decree are based on proper appreciation of evidence and settled principles of law, and suffer from no illegality or jurisdiction error.

9. After due consideration of the pleadings of the parties, the issues framed for adjudication, and the oral as well as documentary evidence adduced on behalf of both sides, and upon hearing the learned counsel for the parties, the learned trial Court, by judgment dated 17.10.2024 passed in Eviction Suit No. 66 of 2022, was pleased to allow the suit.

10. The learned trial Court recorded a categorical finding that the respondents are the owners and landlords of the suit premises and that the relationship of landlord and tenant between the



parties stands admitted. It was further held that the rate of monthly rent and the occupation of the petitioner as a tenant in the suit premises were not in dispute. The learned trial Court, upon appreciation of the evidence on record, accepted the case of the respondents that the suit premises is reasonably and bona fide required for their own use and occupation. While deciding the issues relating to eviction, the learned trial Court held that Respondent No. 2, who is an advocate practising at the Patna High Court, does not have any other suitable residential accommodation at Patna and that the suit premises is required for his residence as well as for running his professional office. The learned trial Court further accepted the evidence that the daughter of Respondent No. 2, who is a doctor, intends to run a clinic in the suit premises and that the location of the suit premises is suitable for such purpose. It was specifically held that partial eviction of the suit premises would not serve the purpose of the respondents and would not satisfy their bona fide requirement.

11. The learned trial Court further held that the respondents had a valid and subsisting cause of action to institute the eviction suit and that the suit was maintainable in law. The learned trial Court recorded that the cause of action arose on the induction of the petitioner as a tenant and was further strengthened by the legal notice dated 18.04.2022 terminating the tenancy and calling upon the petitioner to vacate the suit premises. Issues relating to limitation, waiver, estoppel and costs were noted as not pressed by either party



and were accordingly disposed of without further adjudication.

12. Upon an overall appreciation of the pleadings, evidence and material available on record, the Learned Trial Court concluded that the respondents had successfully established their entitlement to a decree of eviction under Section 11(1) (c) of the BBC Act, 1982. Consequently, the suit was decreed on contest in favour of the respondents and against the defendant. The petitioner was directed to vacate the suit premises described in Schedule-I of the plaint within a period of sixty days from the date of the judgment, failing which the respondent was granted liberty to obtain eviction of the petitioner through the process of the Court. It was further ordered that the costs incurred in executing the decree shall be recoverable from the defendant. The Learned Trial Court, however, directed that there shall be no order as to costs.

13. At the outset, it is necessary to reiterate that the scope of revisional jurisdiction under the said provision is extremely limited as the present Civil Revision has been preferred under Section 14 (8) of the BBC Act, 1982. The revisional court does not sit as a court of appeal and cannot re-appreciate evidence merely because a different view is possible. Interference is permissible only when the findings of the learned trial Court are shown to be perverse, based on no evidence, or suffering from jurisdictional error. The legal position in this regard stands conclusively settled by the Constitution Bench of the Hon'ble Supreme Court in *Hindustan Petroleum*



Corporation Ltd. v. Dilbahar Singh (supra). In paragraph 43, the Hon'ble Supreme Court held that:

“The revisional court does not have the power to reappreciate evidence. The jurisdiction is confined to examine whether the findings of fact recorded by the court below are according to law and do not suffer from perversity or jurisdictional error.”

In the present case, the learned Trial Court has framed specific issues, appreciated oral and documentary evidence adduced by both sides, and returned reasoned findings. No perversity or jurisdictional error has been demonstrated warranting interference.

14. While dealing with the question of maintainability, it is well settled that the existence of a landlord–tenant relationship and lawful termination of tenancy are sufficient to maintain an eviction suit under the BBC Act, 1982. The contention regarding non-registration of the lease deed does not render the suit non-maintainable. The Hon'ble Supreme Court in **Anthony v. K.C. Ittoop & Sons** reported in (2000) 6 SCC 394, has categorically held that *“an unregistered lease deed does not invalidate the tenancy and at best, the tenancy becomes month-to-month.”* The same principle has been reiterated in **Park Street Properties Pvt. Ltd. v. Dipak Kumar Singh** reported in (2016) 9 SCC 268. Co-ordinate bench of this Court has also taken a consistent view in **Shyam Lal v. Sita Devi** reported in 2006 (4) PLJR 203, Para 9, *“Non-registration of the lease deed does not affect the maintainability of an eviction suit*



under the Rent Control Act.” holding that eviction proceedings are maintainable notwithstanding an unregistered lease. In the present case, the learned Trial Court rightly held the suit to be maintainable.

15. Coming to the core issue of **bona fide personal necessity**, the law is well settled that the landlord is the best judge of his requirement, and the Court cannot substitute its own wisdom for that of the landlord. The Hon’ble Supreme Court in ***Sait Nagjee Purushotham & Co. Ltd. v. Vimalabai Prabhulal***, reported in **(2005) 8 SCC 252**, held in paragraph **15** that: *“It is always the prerogative of the landlord to decide how and in what manner he should live or conduct his business. The tenant cannot dictate the terms to the landlord.”* In the present case, the respondents pleaded, proved and admitted by the petitioner that Respondent No. 2 is a practicing advocate at Patna High Court. Further, it appears that they have no residential house of his own in Patna, and requires the suit premises for residence and professional use. The learned trial Court, upon appreciation of evidence, accepted this requirement as genuine and bona fide. The nature and test of bona fide requirement have been elaborately explained by the Hon’ble Supreme Court in ***Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta***, reported in **(1999) 6 SCC 222**, paragraph **11** observed that: *“The requirement of the landlord must be honest, genuine and conceived in good faith. It need not be a dire necessity but must be a real and sincere need.”* Applying the above test, the learned Trial Court has rightly



concluded that the respondents' need is honest and real, and not a mere pretext for eviction.

16. The contention of the petitioner regarding partial eviction is wholly misconceived. It is a settled principle that once the landlord establishes bona fide requirement, the burden shifts upon the tenant to plead and prove that such requirement can be satisfied by partial eviction. In *Rahabhar Productions Pvt. Ltd. v. Rajendra K. Tandon*, reported in (1998) 4 SCC 234, the Hon'ble Supreme Court held in paragraph 18 that: "*Once the landlord establishes bona fide requirement, the onus shifts on the tenant to prove that partial eviction would satisfy such requirement.*" In the present case, as rightly noted by the learned trial Court, the petitioner neither raised any plea of partial eviction in the written statement nor led any evidence to substantiate such a plea. In absence of pleading and proof, the tenant cannot resist eviction on the said ground.

17. On the core issue of **bona fide and reasonable personal necessity**, the law gives primacy to the landlord's assessment of his own need. In *Prativa Devi v. T.V. Krishnan*, reported in (1996) 5 SCC 353, the Hon'ble Supreme Court categorically held in paragraph 2 that the landlord is the best judge of his residential requirement and the tenant cannot dictate the manner of his living. This principle has been further elaborated in *Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta*, reported in (1999) 6 SCC 222, where in paragraph 11 the Supreme Court held that the



requirement must be honest, genuine and conceived in good faith and need not be a dire or compelling necessity. Co-ordinate bench of this Court, applying these principles, held in ***Braj Kishore Prasad v. Smt. Shanti Devi***, reported in **2014 (1) PLJR 695**, paragraph 14, that the requirement of an advocate for residence and professional office in the town where he practices is bona fide. Further, in ***Ramashray Singh v. Bindeshwari Prasad***, reported in **2009 (3) PLJR 91**, paragraph 10, it was held that requirement of premises for dependent family members is a legitimate and bona fide requirement.

18. The contention for partial eviction has been consistently followed by co-ordinate bench of this Court in ***PLJR 2005 (3) 719***, ***PLJR 2013 (2) 491***, ***PLJR 2005 (3) 19***, and ***PLJR 2016 (4) 20***, wherein it has been held that the plea of partial eviction must be specifically pleaded and proved by the tenant and cannot be permitted to be raised for the first time at the revisional stage. With regard to the **existence of cause of action**, it is settled law that cause of action is not confined to a single event but consists of a bundle of facts which may arise at different stages. The Hon'ble Supreme Court in ***A.B.C. Laminart Pvt. Ltd. v. A.P. Agencies***, reported in **(1989) 2 SCC 163**, held in paragraph 12 that cause of action comprises all those facts which the plaintiff must prove to obtain relief and may arise partly at one place and partly at another.

19. Further, in ***Sopan Sukhdeo Sable v. Assistant Charity Commissioner***, reported in **(2004) 3 SCC 137**, the Supreme



Court held in paragraph **15** that the cause of action crystallizes when the right to sue accrues, particularly upon termination of the legal relationship. Applying this principle, the co-ordinate bench of this Court in ***Ram Prasad v. Sita Ram***, reported in ***1998 (2) PLJR 12***, held in paragraph **7** that issuance of a notice terminating tenancy furnishes a fresh and valid cause of action for eviction. From the aforesaid principles it is clear that the finding of the learned trial Court that the respondents had a valid and continuing cause of action.

20. The contention raised by the learned counsel for the petitioner relating to the professional requirement of the daughter of Respondent No. 2, wherein it is well settled principle laid down by Hon'ble Supreme Court in ***Gaya Prasad v. Pradeep Srivastava***, reported in ***(2001) 2 SCC 604***, held in paragraph **10**: “*Subsequent events which strengthen the bona fide requirement of the landlord can be taken into consideration.*” In the present case, the primary ground of eviction remains the personal necessity of Respondent No. 2. Any subsequent professional requirement of his daughter only reinforces the existing need and does not vitiate the decree. The argument advanced by the petitioner regarding alleged payment of rent or disputes concerning the nature of lease does not dilute the decree for eviction on the ground of bona fide personal necessity, particularly when eviction has not been sought on the ground of default. Once bona fide requirement is proved, the question of default becomes immaterial.



21. Upon an overall consideration of the pleadings, evidence, and settled principles of law, this Court finds that the learned trial Court has exercised its jurisdiction properly, applied the correct legal tests, and recorded findings supported by evidence. The impugned judgment does not suffer from any illegality, perversity, or jurisdictional infirmity so as to warrant interference in exercise of revisional jurisdiction.

22. In view of the foregoing discussion, this Court is of the considered opinion that the learned Trial Court has correctly appreciated the pleadings, evidence and the settled principles of law governing eviction on the ground of bona fide personal necessity under Section 11 (1) (c) of the BBC Act, 1982. The findings recorded by the learned Trial Court regarding the existence of landlord-tenant relationship, the bona fide and reasonable requirement of the respondents for the suit premises, and the non-feasibility of partial eviction are based on cogent evidence and do not suffer from any perversity, illegality or jurisdictional error.

23. This Court further finds that the scope of interference under Section 14 (8) of the B.B.C. Act is limited, and the present Civil Revision does not disclose any ground warranting interference with the well-reasoned judgment and decree dated 17.10.2024 passed in Eviction Suit No. 66 of 2022. The contentions raised on behalf of the petitioner are devoid of merit and do not persuade this Court to take a different view. Accordingly, the Civil



Revision Application No. 166 of 2024 is dismissed. The judgment and decree dated 17.10.2024 passed by the learned Civil Judge (Senior Division) VIII, Patna in Eviction Suit No. 66 of 2022 are hereby affirmed. All pending IA's with regard to the civil revision no. 166 of 2024 is also disposed off.

24. The petitioner/defendant is directed to vacate and hand over peaceful possession of the suit premises, as described in Schedule-I of the plaint, to the respondents/plaintiffs within a period of **sixty (60) days** from passing of the orders of this Court otherwise respondents will have right to vacate the suit premise as per process of law.

(Ramesh Chand Malviya, J)

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