

16.09.2025  
SL No.6  
Court No.1  
(gc)

**SAT 42 of 2025  
CAN 1 of 2025**

**Om Prakash Saraogi  
Vs.  
Shobha Rani Jain & Anr.**

Mr. Sounak Bhattacharya,  
Mr. S. S. Bhutoria,  
Mr. Abhirup Halder,  
Ms. Bipasha Bhattacharyya  
...for the Appellant.  
Mr. Vinay Kumar Purohit,  
Mr. Deepak Kumar Jain  
... for the Respondents.

1. The judgment of affirmation by the First Appellate Court is the subject matter of challenge in this second appeal.
2. The suit was filed for eviction of the defendant/appellant from the suit premises on the ground of reasonable requirement. We have carefully read the judgment of the Trial Court as well as the First Appellate Court. The requirement of the plaintiffs for reasonable requirement was proved amongst others on the basis of the report of the Advocate Commissioner. The suggestion of the defendant/appellant is that he is ready and willing to shift at the rear side of the suit building and hand over the room that he is in possession in the front side was not accepted by both the Courts as the plaintiffs were able to

establish that the required rooms in addition to three rooms already in their possession at the rear end of the plaintiffs for commercial exploitation. It is settled law that the Court cannot decide what would be the suitable and reasonable requirement for the plaintiffs either in respect of their requirement for residence or for commercial exploitation as the plaintiffs would be the best judge to decide their requirement and once it is established that such requirements are genuine and not flimsy or illusory or attempt to evict the tenant from the suit premises, the Court should not interfere with the findings of the facts arrived at by both the Courts on analysis of oral and documentary evidence. Moreover, the pleadings for reasonable requirement were established by oral and other evidence by the plaintiffs. Both the Courts have relied upon the decisions of the Hon'ble Supreme Court in this regard:-

- i) *Uday Shankar Upadhyay & Ors. Vs. Naveen Maheshwari reported at (2010) 1 SCC 503;***
- ii) *Mohd. Ayub & Anr. Vs. Mukesh Chand reported at (2012) 2 SCC 155;***
- iii) *Anil Bajaj & Anr. Vs. Vinod Ahuja reported at (2014) 15 SCC 610;***

**iv) *Mehmooda Gulshan Vs. Javaid Hussain Mungloo reported at (2017) 5 SCC 683;***

**v) *Balwant Singh @ Bant Singh & Anr. Vs. Sudarshan Kumar & Anr. reported at (2021) 15 SCC 75.***

3. The ratio of the aforesaid decisions in relation to the facts is clearly applicable. Moreover, the findings of the Trial Court as well as the First Appellate Court do not appear to be perverse.
4. On such consideration, the appeal is not admitted as we do not find that there is any substantial question of law is involved in this second appeal.
5. Accordingly, the second appeal and the application are dismissed.
6. However, there shall be no order as to costs.
7. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

**[Soumen Sen, C.J. (Acting)]**

**(Apurba Sinha Ray, J.)**