

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVISION No.83 of 2023

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Mritunjay Kumar, aged about 49 years, Male, Son of Sri Ramji Prasad, Resident of Village-Mandi, P.O.-Mari, P.S. and District-Nalanda, at Present running Shop in the Name and Style of M/S Niwas Telecom, Saraswati Complex, Bhikhna Pahari Mor, P.O.-Bankipur, P.S.-Pirbahore, District-Patna.

... ..Defendant- Petitioner/s

Versus

Shri Kumar Avinash @ Abinash Prasad, Son of Late Dr. Lalit Mohan Prasad, Resident of Mohalla-Sheikhpura Bagicha, C/o Ramjaipal Singh Yadav near I.G.I.M.S., P.S.-Shastri Nagar, District-Patna.

... ..Plaintiff-Opposite Party

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Appearance :

For the Petitioner/s	:	Mr. Raghib Ahsan, Sr. Advocate
		Mr. Arbind Kumar Singh, Advocate
For the Respondent/s	:	Mr. Nikesh Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
CAV ORDER

11 06-01-2026

This Civil Revision application 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 29.03.2023, decree whereof sealed and signed on 13.04.2023, passed in Eviction Suit no. 12 of 2012, passed by Sri Kumar Ritesh, Learned Munsif-I, Patna Sadar, whereby and where under the learned trial Court decreed the suit without cost directing the petitioner to vacate the suit premises within 60 days from the date of judgment, failing which the respondent will be at liberty to evict the defendant-petitioner from the suit premises by the process of the Court at the cost of the defendant-petitioner.

2. Heard learned counsel for the petitioner and



learned counsel for the respondent.

3. Briefly stated, the facts of the case are that the respondents are the owner of the land of total area of 1947 sq. ft., purchased out of their joint family fund. The land has been registered through three separate registered sale deed nos. 8695, 8696 and 8697 respectively from Pramila Bala Sinha and others. The suit premises is one of the portions of the said property. After the purchase, the names of the purchasers were duly mutated in the relevant municipal and revenue records, and subsequently a commercial complex was constructed over the said land in the name and style of “Sarswati Complex.”

4. Further, the case of the respondent is that on 22.05.2001, one of the co-purchasers, namely Abhishek Kumar @ Abhishek Prasad, died intestate and unmarried, as a result of which his undivided share measuring approximately 660 sq. ft. devolved jointly upon the respondent and their mother, Smt. Neelam Prasad, in accordance with law. The respondent, thus, became a co-sharer and co-owner of the suit property along with his mother. After attaining majority, and with the consent and approval of his mother, the respondent instituted the present suit for eviction in his capacity as a co-sharer landlord.

5. During the period when he was a minor, his mother, on the request of the petitioner, agreed to induct him as



a tenant in respect of two commercial shops situated in the Sarswati Complex, having a total area of about 218 sq. ft. (23'7" × 9'3"). The petitioner is a monthly tenant in respect of the said two shops on a monthly rent of Rs. 1,400/- for one shop and Rs. 900/- for the other, aggregating to Rs. 2,300/- per month. The tenancy was created on specific terms and conditions, inter alia, that the monthly rent would be paid in advance within the first week of each English calendar month, that the electricity charges consumed in the suit premises would be borne and paid by the petitioner, and that all other dues such as telephone bills, service tax and any other applicable taxes would be the sole responsibility of the petitioner.

6. It is further pleaded that it was an express condition of the tenancy that if the petitioner defaulted in payment of rent for two successive months, he would render himself liable to be evicted from the suit premises through a competent Court of law. It was also agreed that the petitioner would not sublet the suit premises to any third party, would not change the nature of his business without obtaining prior written permission of the landlord, and would not make any alteration or change in the shape, size or structure of the suit premises. The respondent has further stated that he completed his Master of Business Administration (MBA) course during the academic



session 2006–2008. However, owing to the fact that his mother is a widow and requires his care and support, he has been residing with her and has remained unemployed. In order to earn his livelihood and to establish himself independently, the respondent has decided to start his own business by opening a showroom of a reputed company, for which the suit premises as well as the portions under occupation of other tenants in the complex are bona fide required.

7. Learned counsel for the petitioner submits that the eviction suit as framed, is not maintainable either in law or on facts and that it discloses no valid cause of action. According to him, the facts relating to the accrual of cause of action, as pleaded in the plaint, are false, incorrect and have been deliberately concocted only for the purpose of instituting the present suit. He further contended that the suit is barred by the principles of estoppel, waiver and acquiescence, and is also bad for non-joinder of necessary parties. It is the categorical case of the petitioner that he had admittedly taken the suit premises on rent from Smt. Neelam Prasad, the mother of the respondent, and not from the respondent himself. On this ground alone, the petitioner submits that the suit is not maintainable, as Smt. Neelam Prasad, being the actual landlord and necessary party, has not been impleaded in the suit.



7.i. He further submits that the plaint suffers from material concealment of facts. The petitioner has denied the respondent's assertion that the tenancy was created with the consent of the respondent and has alleged that such a story has been falsely introduced to give color of legitimacy to the suit. He further submits that the respondent has deliberately concealed the full and correct description of the entire construction of "Sarswati Complex." It is specifically pleaded that at the time of creation of tenancy, the respondent was admittedly a minor and, therefore, there existed no relationship of landlord and tenant between the respondent and the petitioner.

7.ii. Learned counsel for the petitioner has categorically denied the plea of *bona fide* personal necessity as pleaded by the respondent and has contended that the same is neither genuine nor sustainable in law. It has been urged that the respondent's assertion that he is required to reside at Patna for the purpose of looking after his mother is factually incorrect, inasmuch as the respondent's mother is herself a well-placed, self-sufficient lady serving as a Professor at Guru Gobind Singh College. Learned counsel for the petitioner further asserted that the plea of personal necessity has been set up merely as a pretext for eviction, as the respondent has been admittedly



gainfully employed since the year 2011 and has been working with a water purifier company at Boring Road, thereby negating any *bona fide* requirement to commence a business in the suit premises.

7.iii. Learned counsel for the petitioner has also denied the allegation that any demand was made by the respondent or his mother for vacating the suit premises and has submitted that such assertions are wholly false, baseless and fabricated. On the contrary, it has been specifically pleaded that the respondent's mother demanded an additional sum of Rs. 50,000/- by way of *pagri* and further sought enhancement of the monthly rent to Rs. 8,000/-. Upon the petitioner expressing his inability to accede to such illegal and unreasonable demands, the respondent's mother deliberately refused to accept the rent tendered by the petitioner. In view of the aforesaid facts, the petitioner has contended that he cannot be treated as a defaulter in payment of rent and, consequently, is not liable to be evicted from the suit premises.

7.iv. On the basis of the aforesaid pleadings, the petitioner has claimed that the eviction suit has been filed only with an intention to harass and pressurize him, that it lacks *bona fide* grounds, and that it is liable to be dismissed with costs. Further, learned counsel for the petitioner submits that the trial



Court has erred in deciding Issue No. VII holding that the petitioner is a defaulter having failed to pay rent from March 2012 because the suit was tried under special procedure for passing a decree for eviction on the ground of personal necessity and as such judgment / order under revision is fit to be set aside.

7.v. While deciding Issue Nos. VI, VII and VIII the trial Court has passed the decree on consideration of the oral and documentary evidence adduced by the plaintiff as the defendant's defence having struck off for failing to the arrears of rent as directed under Section 15 of the BBC Act, he was not allowed to adduce evidence as a result of money order sent against monthly rental which is part of the record could not be marked as exhibits but the trial Court wrongly held that the order was passed on consideration of evidence adduced by the parties.

7.vi. The proviso to Section 11 (1) C reads as under:

"provided that where the court thinks that the reasonable requirement of the such occupation may be only of the building and allowing the tenant to continue and fix proportionally fair rent for the portion in occupation of the tenant, which portion shall hence forth constitute the building within the meaning of clause (6) of section 2 and the rent so fixed shall be deemed to



be the fair rent fixed under section 5".

7.vii. From the impugned order, it is evident that the trial Court has not at all dealt with the requirement of the above proviso and has held that since the landlord/plaintiff requires the suit premises for personal use and occupation reasonably and in good faith, hence the partial evidence would not serve the purpose and requirement of the plaintiff” No evidence was adduced about the dimension of the two rooms which are subject matter of the suit.

7.viii. It is submitted that no evidence whatsoever was adduced regarding the dimensions of the two rooms which constitute the subject matter of the suit. The Hon’ble Patna High Court has consistently held in several decisions that it is a mandatory duty cast upon the Court, while passing a decree of eviction on the ground of personal necessity, to ascertain the dimensions of the suit premises and thereafter to determine whether the requirement of the landlord can be substantially satisfied by evicting the tenant from a part of the premises. Further, learned counsel has relied upon the judgment rendered by Co-ordinate Bench of this Court in ***Bimal Kishore Gupta v. Smt. Beena Devi & Ors.***, C.R. No. 2255 of 2000 and ***Md. Jahangir v. Smt. Kirti Devi***, Civil Revision No. 659 of



2001. Further, reliance is placed on the judgments reported in **2001 (2) PLJR 837; 2004 (4) PLJR 843** and **2002 (3) PLJR 656**, wherein it has been categorically held that non-consideration of the proviso to Section 11 (1) (c) of the BBC Act vitiates the decree of eviction.

8. Learned counsel for the respondent submits that Smt. Neelam Prasad and her two sons, namely the respondent and Abhishek Kumar @ Abhishek Prasad (since deceased), purchased a joint family property measuring 1947 sq. ft. on 16.10.1989 through three registered sale deeds bearing Nos. 8697, 8696 and 8695 (Exhibits 2, 2/A and 2/B). After the death of Abhishek Prasad on 22.05.2001 (Exhibit-3), his undivided share devolved upon the respondent and his mother, who have since been jointly enjoying right, title, interest and possession over the property, paying rent as evidenced by Exhibits 1, 1/A and 1/B, and having constructed “Sarswati Complex” thereon. That after attaining majority, the respondent, being a co-owner, instituted the eviction suit with the consent of his mother on the sole ground of *bona fide* personal necessity.

8.i. He further submits that the petitioner is an admitted tenant in respect of two commercial shops measuring about 218 sq. ft. at a total monthly rent of Rs. 2,300/-. The respondent, having completed his MBA (Marketing) in 2009



(Exhibit-4), remained unemployed and decided to start his own business by opening a showroom, for which eviction of the petitioner and other tenants is genuinely required. Repeated requests to vacate the premises were refused, compelling the filing of the suit. That the respondent has duly proved his title, co-ownership and *bona fide* need through documentary evidence and oral testimony of six witnesses, including himself and his mother. The petitioner, in his written statement, has admitted the relationship of landlord and tenant, the quantum of rent, and the purchase and construction of the Schedule-I property.

8.ii. It is settled law that any one co-owner can maintain an eviction suit with the consent of other co-sharers, as held in **2004 (1) PLJR 462, Bhola Prasad Sah v. Ram Dhani Prasad (para 9)**. He submits that the defence of the petitioner was struck off under Section 15 (1) of the BBC Act, 1982, and no cogent evidence was led by him. The petitioner has remained in occupation without paying rent since 2012. He neither pleaded nor proved that partial eviction would substantially satisfy the respondent's need. The onus to establish partial eviction lies on the tenant, which the petitioner has failed to discharge, as held in **2010 (3) PLJR 483, Chandradeep Kumar v. Gatrimal Kanodia (para 25)** and **2012 (3) PLJR 649,**



Hanuman Prasad Gupta v. Shankar Chaudhary (paras 6–7).

8.iii. Further, partial eviction cannot be ordered in absence of evidence, as laid down in **2014 (4) PLJR 476, Hira Lal Das v. Loknath Newatia**. In view of the aforesaid facts, admissions, evidence and settled law, the respondent has clearly established his *bona fide* personal necessity, and the present Civil Revision deserves to be decided in favour of the respondent.

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 29.03.2023 passed in Eviction Suit No. 12 of 2012, was pleased to allow the suit.

10. The Learned Trial Court in the judgment first took up Issue No. V relating to the existence of the relationship of landlord and tenant between the plaintiff and the defendant under the provisions of the BBC Act, 1982. Upon a detailed consideration of the pleadings and evidence, the learned trial Court in the judgment recorded that the defendant had, in paragraphs 5, 12 and 13 of his written statement, clearly admitted that he had taken the suit premises on rent on oral agreement at a monthly rent of Rs. 2,300/-. The learned trial



Court in the judgment further relied upon the oral evidence of PW-1, PW-6 and even the defence witnesses, DW-1 and DW-2, who consistently admitted the tenancy and the agreed rate of rent. On the basis of these admissions and corroborative evidence, coupled with documentary exhibits including Exts. 1 to 1/B and Exts. 2 to 2/B, the learned trial Court in the judgment held that the relationship of landlord and tenant stood conclusively proved. It was further held that the defendant had failed to pay rent since March 2012 and was, therefore, a defaulter. Accordingly, Issue No. V was decided in favour of the plaintiff.

11. While deciding Issue No. IV regarding non-joinder of necessary parties, the learned trial Court in the judgment held that although the plaintiff's mother, Smt. Neelam Prasad, was initially the landlady, the documentary and oral evidence on record established the plaintiff's ownership and entitlement over the suit premises. Consequently, the suit was held not to be bad for non-joinder of any necessary party, and the issue was answered in favour of the plaintiff. Thereafter, the learned trial Court in the judgment considered Issue Nos. VI and VIII together, concerning partial eviction and the plaintiff's entitlement to a decree of eviction on the ground of personal necessity. Upon appreciation of the oral evidence of PW-1, PW-



5 and PW-6, as well as documentary evidence including Ext. 4, the learned trial Court in the judgment recorded a finding that the plaintiff had completed his MBA in 2009, remained unemployed, and was required to stay at Patna to look after his widowed mother. The learned trial Court in the judgment further held that the plaintiff *bona fide* intended to open a showroom of a reputed company and required not only the suit premises but also additional space by eviction of other tenants. The learned trial Court in the judgment rejected the plea of partial eviction, holding that partial eviction would not satisfy the reasonable requirement of the plaintiff.

12. Accordingly, the learned trial Court in the judgment held that the plaintiff had established *bona fide* personal necessity and was entitled to eviction of the defendant from the suit premises. Finally, while deciding Issue Nos. I, II, III and IX, the learned trial Court in the judgment held that the suit was maintainable, that the plaintiff had a valid cause of action, and that the suit was not barred by estoppel, waiver, acquiescence or limitation. Consequently, all the issues were decided in favour of the plaintiff.

13. By the impugned judgment and decree, the learned trial Court in the judgment decreed the suit on contest without cost and directed the defendant to vacate the suit



premises within 60 days from the date of judgment, failing which the plaintiff was granted liberty to evict the defendant through the process of the Court at the defendant's cost.

14. Before advertng to the merits of the rival submissions, it would be appropriate to notice the settled principles of law governing eviction on the ground of *bona fide* personal necessity and the scope of interference in revisional jurisdiction. The Hon'ble Supreme Court as well as this Court have consistently held that once the landlord establishes a genuine and reasonable requirement for his own use, the tenant cannot dictate the manner in which the landlord should utilize his property, nor can the Court substitute its own wisdom for that of the landlord.

15. The decision of this Court in ***Bimal Kishore Gupta v. Smt. Beena Devi & Ors., C.R. No. 2255 of 2000*** (decided on 18.04.2001), supports the case of the respondent/landlord wherein co-ordinate bench held that :

“Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982-Section 11(1) (c), Proviso-Plaintiff (No. 2) being a joint owner of the suit premises and having interest in it, cannot be treated as a mere Rent Collector and as such he can bring a suit for eviction on the ground of personal necessity-even if unprobated will did not confer any right, title and interest to the plaintiff (No. 1), the same will not be a



ground to defeat the claim of the plaintiffs to seek eviction-however, duty is cast upon the Court to consider the question of partial eviction even if no such plea is taken by the tenant-court is required to determine the extent of the premises which is reasonably required by the landlord-order of court below directing eviction of petitioner-tenant without consider-ing the question of partial eviction is liable to be set aside matter remitted back for fresh consideration. (Paras 10, 12, to 14)”

“Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982-Section 14(8) r/w Section 115 of Code of Civil Procedure, 1908-though power u/s 14(8) is wider than the power u/s 115, it cannot be equated with the appellate power-High Court will interfere with an order only when it is illegal or perverse and to that extent reappraisal of evidence is permissible however, High Court cannot re-assess or re-evaluate the evidence only on the ground that a different view is feasible. (Para 11)”

16. Although Co-ordinate Bench of this Court in the said case emphasized the duty of the trial Court to consider the question of partial eviction even in the absence of a specific plea by the tenant (paras 12–14), the eviction order therein was set aside only on account of non-consideration of that aspect and not for want of *bona fide* personal necessity. In the present case, the learned trial Court in the judgment has expressly considered and rejected the plea of partial eviction on the basis of evidence,



thereby curing the defect noticed in ***Bimal Kishore Gupta (supra)***. The said judgment further delineates the limited scope of revisional jurisdiction under Section 14(8) of the Act read with Section 115 CPC, holding that interference is permissible only where the order is illegal or perverse and not merely because another view is possible (para 11). Thus, the ratio of ***Bimal Kishore Gupta (supra)*** reinforces the respondent's right to seek eviction and supports non-interference with the well-reasoned findings of the learned trial Court in the judgment.

17. The judgment of Co-ordinate Bench of this Court in ***Md. Jahangir v. Smt. Kirti Devi, Civil Revision No. 659 of 2001***, held that:

“Bihar Buildings (Lease, Rent & Eviction) Control Act, 1982-Section 14(8) r/w section 11-only because there is a plea from the side of the tenant that an agreement of sale was entered into between the landlord and himself the same does not take away the right of eviction on the ground as contemplated u/s 11-by entering into an agreement of purchase a per-son cannot become owner apparent and till the sale deed is executed in his favor does not become ownership and as such the question of merger of tenancy with the ownership does not arise at all-a kirayanama (for ten years) executed by the tenant or by the landlord in favour of tenant can be admissible only for col-lateral purposes (to establish the relation-ship of landlord and



tenant on monthly rental)-other terms and conditions are not implementable if such kirayanama or lease is not a registered deed-instantly, practically by legal implication the relationship established between the landlord and the purchaser-landlord-lower court directed to frame an issue on partial eviction. (Paras 4 to 6)”

“Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982-Section 11(1) (c)-partial eviction-only smallness of the suit premises does not mean to give away the adjudication regarding per-sonal necessity-opportunity to tenant to adduce evidence regarding partial eviction is required to be given where the court below has not arrived at on the issue of partial eviction, the matter is required to be remanded to the court below on this issue. (Para 6)”

18. This Court further affirmed that once the landlord establishes *bona fide* and reasonable personal requirement, eviction is legally permissible, and ancillary pleas raised by the tenant cannot defeat such statutory right. Although in the said case the eviction decree was remitted only on the limited issue of consideration of partial eviction, the findings of the trial Court on maintainability of the suit, existence of landlord-tenant relationship and *bona fide* personal necessity were expressly upheld. The ratio of the said judgment, therefore, reinforces the settled position that the landlord’s right to evict on the ground of personal necessity remains intact, subject only to



consideration of partial eviction were warranted by evidence. In the present case, since the learned trial Court in the judgment has already considered and rejected the plea of partial eviction on the basis of evidence on record, the principle laid down in ***Md. Jahangir (supra)*** squarely supports the respondent-landlord's claim for eviction and non-interference with the impugned decree.

19. The law relating to eviction on the ground of *bona fide* personal necessity is no longer *res integra*. The Hon'ble Supreme Court in ***Sarla Ahuja v. United India Insurance Co. Ltd., (1998) 8 SCC 119***, while interpreting the scope of eviction on the ground of personal requirement, has lucidly explained the approach which a Court is required to adopt. In paragraph of the said judgment, the Hon'ble Apex Court held as under:

“The crux of the ground envisaged in clause (e) of Section 14(1) of the Act is that the requirement of the landlord for occupation of the tenanted premises must be bonafide. When a landlord asserts that he requires his building for his own occupation the Rent Controller shall not proceed on the presumption that the requirement is not bonafide. When other conditions of the clause are satisfied and when the landlord shows a prima facie case it is open to the Rent Controller to draw a presumption that the requirement of



the landlord in bonafide. It is often said by courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting possession of the tenanted premises. While deciding the question of bonafide of the requirement of the landlord it is quite unnecessary to make an endeavor as to how else the landlord could have adjusted himself.”

20. The principle laid down in *Sarla Ahuja (supra)* further clarifies that once *bona fide* personal necessity is established, the trial Court should not weigh the landlord’s requirement against the convenience of the tenant, except to the limited extent contemplated under the proviso relating to partial eviction. In the present case, the learned trial Court in the judgment has also examined the aspect of partial eviction and has recorded a reasoned finding that partial eviction would not satisfy the respondent’s requirement, particularly when the respondent seeks a consolidated commercial space for establishing a showroom. Thus, even the safeguard provided to the tenant under the proviso stands duly considered and answered.

21. In view of the authoritative pronouncement of the Hon’ble Supreme Court in *Sarla Ahuja (supra)*, and its correct application by the learned trial Court in the judgment to the facts of the present case, this Court finds no perversity,



arbitrariness or legal infirmity in the finding that the respondent's requirement is *bona fide*. The finding is based on evidence, conforms to settled law, and does not warrant interference in revisional jurisdiction.

22. Again, in *Joginder Pal v. Naval Kishore Behal, (2002) 5 SCC 397*, the Hon'ble Supreme Court emphasised the concept of "reasonable requirement" and observed that:

"In the present case, the requirement of landlord of the suit premises for user as office of his chartered accountant son is the requirement of landlord 'for his own use' within the meaning of Section 13(3)(a)(ii)."

23. In the present case, the learned trial Court in the judgment has rightly accepted the respondent's case that he requires the suit premises for starting his own business after completion of his MBA and for earning his livelihood. The finding is not based on a mere assertion, but on a careful appreciation of evidence showing that the respondent is professionally qualified, has remained unemployed, and intends to utilize the suit premises for establishing an independent source of income. Such a requirement squarely falls within the concept of *bona fide* personal necessity as recognized by the Hon'ble Supreme Court, which includes the need of a landlord



to settle himself in life and earn his livelihood through self-employment. Viewed in this light, the respondent's case fully satisfies the test laid down by the Apex Court that the landlord's requirement must be genuine, honest and conceived in good faith. The learned trial Court in the judgment has therefore committed no error in holding that the respondent's need for the suit premises is *bona fide* and warrants eviction of the tenant in accordance with law.

24. The law on eviction on the ground of *bona fide* personal necessity stands authoritatively settled by the Hon'ble Supreme Court in ***Raghavendra Kumar v. Firm Prem Machinery & Co.***, reported in ***(2000) 1 SCC 679*** wherein categorically held that "*the landlord is the best judge of his requirement for residential or business purposes and enjoys complete freedom in deciding how and where he intends to carry on his business*" (para 10). It was further clarified that "*the mere existence or ownership of other properties does not defeat the landlord's claim of bonafide necessity unless it is specifically proved that such alternative premises are vacant and suitable for the proposed purpose*" (para 12). This Court also emphasized that the question of *bona fide* requirement is essentially a question of fact to be determined on appreciation of oral and documentary evidence, and once such finding is



recorded by the trial Court, it does not give rise to any substantial question of law warranting interference (para 9):

“The only question to be decided in the suit was whether the plaintiff-landlord wanted the suit premises for bona fide requirement... it has to be decided on appreciation of evidence.”

25. Importantly, the Supreme Court disapproved re-appreciation of evidence merely because another view is possible and held that interference with concurrent findings of fact is impermissible unless the findings are perverse or illegal (para 16):

“The High Court in the second appeal erred in law by setting aside concurrent findings of fact of the courts below by re-appreciating the entire evidence on record.”

26. Applying these settled principles to the facts of the present case, this Court finds that the learned trial Court in the judgment has, upon a proper appreciation of evidence, rightly recorded a categorical finding of *bona fide* personal necessity in favour of the respondent-landlord. The petitioner-tenant has failed to establish the availability of any suitable alternative accommodation or to dislodge the said finding. Consequently, no perversity, illegality or jurisdictional error is



found in the impugned judgment so as to warrant interference in revisional jurisdiction.

27. The Hon'ble Patna High Court has also consistently taken the view that once *bona fide* personal necessity is established, eviction must follow unless the tenant discharges the burden of proving partial eviction. In ***Bhola Prasad Sah v. Ram Dhani Prasad, 2004 (1) PLJR 462***, this Court held in paragraph 9:

“In case of joint family property, any one of the co-sharers can maintain an eviction suit against the tenant and the tenant cannot resist eviction on the ground that other co-sharers have not joined, particularly when consent is established.”

28. This judgment directly answers the petitioner's objection regarding non-joinder of Smt. Neelam Prasad as a plaintiff/opposite party and fully supports the maintainability of the suit. In view of the facts and circumstances discussed herein-above, the pleadings of the parties, the evidence on record, and the settled principles of law laid down by the Hon'ble Supreme Court and Co-ordinate Bench of this Court, this Court finds no illegality, perversity or jurisdictional error in the impugned judgment and decree dated 29.03.2023, passed by the learned Munsif-I, Patna Sadar, in Eviction Suit No. 12 of 2012, warranting interference in



exercise of revisional jurisdiction under Section 14(8) of the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982.

29. Accordingly, the Civil Revision No. 83 of 2023 is dismissed. The judgment and decree dated 29.03.2023, sealed and signed on 13.04.2023, passed by the learned trial Court in the judgment, are hereby affirmed.

30. The petitioner/tenant is directed to vacate and hand over peaceful and vacant possession of the suit premises to the respondent–landlord within a period of 60 (sixty) days from today, failing which the respondent shall be at liberty to execute the decree and recover possession of the suit premises through the process of the Court at the risk and cost of the petitioner. There shall be no order as to costs.

(Ramesh Chand Malviya, J)

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