



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

MADAN MOHAN (DEAD) THROUGH LRS. ...APPELLANT(S)

VERSUS

THAKAR DASS (DEAD) THR. LRS. ...RESPONDENT(S)

JUDGMENT

SANJAY KAROL J.

1. Leave Granted.
2. One Kamla Devi had filed a suit for eviction¹ against the respondent – tenant, on two grounds: (i) non-payment of rent; and (ii) *bona fide* requirement for herself and her son Madan Mohan. Both have since deceased, and now the appeal before us is being prosecuted by their legal representatives. The Rent Controller, Nabha² and the Appellate Authority, Patiala³, both found the case of the landlord

¹ Under Section 13 of the East Punjab Urban Rent Restriction Act, 1949; 'the Act'

² RA No. 12/15.04.2003 dated 27th May 2010; 'RA'

³ RA No. 12-A of 15.6.2010 dated 6th January 2011 'AA'

to be proved and thus decreed the eviction. However, the High Court of Punjab and Haryana in the impugned judgment⁴, reversed these findings.

3. The proceedings before the Courts below were as follows:

3.1 At the outset, it is noted that the relationship of landlord-tenant is undisputed with the rental of the tenancy at Rs.112.50 per month. In response to the eviction petition, it was submitted that on 3rd June 2003, the respondent-tenant had tendered the rent as claimed with effect from 17th July 1998 till 9th June 2003 (the entire period of unpaid rent) along with Rs. 1000 as interest and Rs. 1100 as cost, totalling to an amount of Rs. 8740/- which was accepted. On the ground of *bona fide* requirement, the same was denied as illusory primarily on the ground that it was inconceivable to the respondent-tenant that an 80-year-old woman would like to run a business and also that she had another shop that was being rented out by her son Adarsh Mohan, and the entire litigation is at his behest, despite the fact that one of the 3 shops that have been constructed by the appellant-landlord was still vacant.

3.2. A total of 8 issues were framed by the RA. Below is a tabular representation thereof:

Sr.No	Issue	Outcome
1.	Whether the tendered arrears of rent made by the Respondents are invalid?	In favour of the Respondent-Tenant
2.	Whether the petitioner requires the shop in question in her personal capacity and instead of her son Madan Mohan?	In favour of the Appellant-Landlord
3.	Whether the petitioner and her son Madan Mohan are not in possession of any other non-	In favour of the Appellant-Landlord

⁴ CR No. 1573 of 2011 dated 6th August 2018

	residential property except this shop within Nabha limits?	
4.	Whether the petitioner and her son have not vacated any non—residential premises After coming into force of Rent Act within municipal limits of Nabha?	In favour of the Appellant-Landlord
5.	Whether the petition is maintainable in its present form?	In favour of the Appellant-Landlord
6.	Whether the petitioner is estopped by her act and conduct from filing the present petition?	In favour of the Appellant-Landlord
7.	Whether the petitioner has no cause of action to file the present suit?	In favour of the Appellant-Landlord
8.	Relief	Petition allowed with costs. Respondent-Tenant was directed to handover possession of the shop within three months.

3.3. The AA upheld the conclusion of the RA stating that although Kamla Devi had filed the suit on the basis of personal necessity and since she had died during the pendency of the petition, her personal necessity did not subsist but since the requirement of necessity was also attached to Madan Mohan, the said ground would survive and as such there was no need to interfere with the order.

3.4 The High Court, speaking through learned Single Judge, differed with the opinions summarised above. Taking note of Section 13 of the Act, and the pleadings of the parties, it was observed that despite the fact having been pointed out, Kamla Devi denied that one of her shops was lying vacant. In the witness box as well, she stated that Adarsh Mohan, was running his business from one of the shops and in the other one there was some garbage that had been stored. The Court further observed that both

the RA and AA had misread the evidence to held that Adarsh Mohan had been using the third shop as a store – this, according to the learned Single Judge was not borne out of any record. She had, in fact, concealed the existence of the third shop and only in the evidence she stated that the third shop was being used by Adarsh Mohan. As such, she did not approach the Court with clean hands. The revision petition was allowed.

4. We have heard Mr Anurag, learned Advocate-On-Record for the appellant-landlord and Mr Manoj Swarup, learned senior counsel appearing as *amicus curiae*, for the respondent-tenant.

5. In ***Ram Krishan Grover v. Union of India***⁵, three judges of this Court, in short discussed the origins of rent control legislations as follows:

“44. Rent control legislation are quintessentially social legislation that were enacted in the 1940s and 1950s to protect and curb exploitation of tenants in view of the prevailing socio-economic conditions due to large scale immigration to towns and cities, increase in population, lack of housing facilities as landed property was owned by a few well-off and wealthy persons. The rent control legislation, therefore, interfered with the general freedom of contract and right of the landlord to seek eviction under the Transfer of Property Act. However, all such legislations invariably also provide for balancing the conflicting rights of the landlords. In several decisions, this Court has emphasised that there is a need for balancing the two rival interests as has been observed in *Malpe Vishwanath Acharya v. State of Maharashtra* [*Malpe Vishwanath Acharya v. State of Maharashtra*, (1998) 2 SCC 1] , *Joginder Pal v. Naval Kishore Behal* [*Joginder Pal v. Naval Kishore Behal*, (2002) 5 SCC 397] , *Satyawati Sharma v. Union of India* [*Satyawati Sharma v. Union of India*, (2008) 5 SCC 287] and in the recent decision in *Vinod Kumar v. Ashok Kumar Gandhi* [*Vinod Kumar v. Ashok Kumar Gandhi*, (2019) 17 SCC 237]”

⁵ (2020) 12 SCC 506

6. Before proceeding further, let us examine the contours of ‘*bona fide requirement*’

6.1 First and foremost, the existence of the landlord-tenant relationship is essential. While it is true that a landlord has the right to enjoy his own property, the law does not grant its refuge to any arbitrary action, and so a landlord simply by virtue of that status, cannot show someone the door without the due process of law. It is here that *bona fide* requirement comes in. *Bona fide* translates to ‘*in good faith*’ which then predicates the requirement that may be faced by a landlord. A co-ordinate Bench in ***Shiv Sarup Gupta v. Mahesh Chand Gupta***⁶, held thus:

“13... “The degree of intensity contemplated by “requires” is much more higher than in mere desire. The phrase “required bona fide” is suggestive of legislative intent that a mere desire which is the outcome of whim or fancy is not taken note of by the rent control legislation. A requirement in the sense of felt need which is an outcome of a sincere, honest desire, in contradistinction with a mere pretence or pretext to evict a tenant, on the part of the landlord claiming to occupy the premises for himself or for any member of the family would entitle him to seek ejectment of the tenant. Looked at from this angle, any setting of the facts and circumstances protruding the need of the landlord and its bona fides would be capable of successfully withstanding the test of objective determination by the court. The judge of facts should place himself in the armchair of the landlord and then ask the question to himself — whether in the given facts substantiated by the landlord the need to occupy the premises can be said to be natural, real, sincere, honest. If the answer be in the positive, the need is bona fide. The failure on the part of the landlord to substantiate the pleaded need, or, in a given case, positive material brought on record by the tenant enabling the court drawing an inference that the reality was to the contrary and the landlord was merely attempting at finding out a pretence or pretext for getting rid of the tenant, would be enough to persuade the court certainly to deny its judicial assistance to the landlord. Once the court is satisfied of the bona fides of the need of the landlord for the premises or additional premises by applying objective standards then in the matter of choosing out of more than one accommodation available to the landlord his subjective choice shall be respected by the court. The court would permit the

⁶ (1999) 6 SCC 222

landlord to satisfy the proven need by choosing the accommodation which the landlord feels would be most suited for the purpose; the court would not in such a case thrust its own wisdom upon the choice of the landlord by holding that not one but the other accommodation must be accepted by the landlord to satisfy his such need. In short, the concept of bona fide need or genuine requirement needs a practical approach instructed by the realities of life. An approach either too liberal or too conservative or pedantic must be guarded against.”

In **Baldev Singh Bajwa v. Monish Saini**⁷, ‘*bona fide requirement*’ was discussed in the following terms with reference to the earlier decisions in **Bega Begum v. Abdul Ahad Khan**⁸; **Surjit Singh Kalra v. Union of India**⁹,

“14. The phrase “bona fide requirement” or “bona fide need” or “required reasonably in good faith” or “required”, occurs in almost all Rent Control Acts with the underlying legislative intent which has been considered and demonstrated innumerable times by various High Courts as also by this Court, some of which we would like to refer to. In *Ram Dass v. Ishwar Chander* [(1988) 3 SCC 131] it is said that the bona fide need should be genuine and honest, conceived in good faith. It was also indicated that the landlord's desire for possession, however honest it might otherwise be, has inevitably a subjective element in it, and that desire, to become a “requirement” in law must have the objective element of a “need”, which can be decided only by taking all the relevant circumstances into consideration so that the protection afforded to a tenant is not rendered illusory or whittled down.”

(emphasis supplied)

7. As can be seen from the above, the Court has actively engaged with the question of ‘*bona fide requirement*’ right from the advent of Rent Control legislations. Across the country and across numerous statutes, this requirement is found and defined.

8. Whether or not, in a particular set of circumstances a landlord’s decision to ask his tenant to vacate, falls within ‘*bona fide requirement*’ is not something that

⁷ (2005) 12 SCC 778

⁸ (1979) 1 SCC 273

⁹ (1991) 2 SCC 87

can be determined by a mathematical formula. As such, let us examine the facts of the present case.

9. The primary reason why the High Court overturned the decision of the Courts below was that the landlady (Kamla Devi) had not come to the Court with clean hands and had concealed the availability of the third shop. It was observed that the said shop was used to store garbage. If the shop that is alleged to be an alternate accommodation was being used for storing waste material as has been held by both the RA and the AA, then that being the finding of fact, what occasioned the High Court to take a different view in civil revisional jurisdiction? The old saying is, ‘*one man’s trash is another man’s treasure*’. So, even if the statement is accepted as it is, we fail to see what is wrong with it. Let it be used as such. After all, right from beginning the ‘*bona fide requirement*’ was pleaded for by both Kamla Devi and Madan Mohan. It was concurrently held as such by the RA and the AA. The one that had hitherto been rented, will now be used as a shop to run a boutique.

10. It is well settled that the scope of Section 115 Code of Civil Procedure, 1908 is limited. We may refer to a few pronouncements:

10.1 35 years ago, it was observed in *Masjid Kacha Tank, Nahan v. Tuffail Mohammed*¹⁰, that:

“3. It is well settled position in law that under Section 115 of the Code of Civil Procedure the High Court cannot reappreciate the evidence and cannot set aside the concurrent findings of the courts below by taking a different view of the evidence. The High Court is empowered only to interfere with the findings of fact if the findings are perverse or there has been a non-appreciation or non-consideration of the material evidence on record by the courts below. Simply because another view of the evidence may be taken,

¹⁰ 1991 Supp (2) SCC 270

is no ground by the High Court to interfere in its revisional jurisdiction.”

10.2 The Constitution Bench in *Hindustan Petroleum Corpn. Ltd. v. Dilbahar Singh*¹¹, while dealing with this very question of the scope of revisional power in the context of rent acts, particularly in issue therein held as under:

“...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.”

10.3 A three judge Bench of this Court in *Ambadas Khanduji Shinde v. Ashok Sadashiv Mamurkar*¹², while dealing with a landlord-tenant dispute observed as under:

“14. Apart from the factual aspect, order lacks merit on the ground of jurisdiction. The High Court cannot interfere with the concurrent factual findings while exercising jurisdiction under Section 115 of the Civil Procedure Code. It is settled law that revisional jurisdiction of the High Court is restricted to cases of illegal or irregular exercise of jurisdiction by the subordinate courts. Under Section 115 of the Civil Procedure Code, it is not open for the High Court to correct errors of facts or law unless they go to root of the issue of jurisdiction. In the facts on hand, the courts below have passed reasoned orders well within the jurisdiction conferred upon them. We arrive at the conclusion that the High Court committed error in interfering with the judgment and decree of the trial court.”

(Emphasis supplied)

11. On both counts as discussed hereinabove, the final judgment and order dated 6th August 2018 passed by the High Court of Punjab and Haryana at Chandigarh in C.R.No.1573/2011 (O&M) is unsustainable and hereby set aside. Ordered

¹¹ (2014) 9 SCC 78

¹² (2017) 14 SCC 132

accordingly. The concurrent findings and orders of the Rent Controller, Nabha dated 27th May 2010 and the Appellate Authority, Patiala are hereby affirmed. Consequently, the respondent is directed to deliver the vacant and peaceful possession of the demised shop to the appellant(s) within a period of two months from the date of this judgment. The appeal is allowed accordingly. Pending application(s), if any, shall stand disposed of. No costs.

.....J.
(SANJAY KAROL)

.....J.
(AUGUSTINE GEORGE MASIH)

New Delhi;
July 21, 2026