
(2009) 02 DEL CK 0201
In the Delhi High Court
Case No : C.R.P. No. 101 of 1998

M/s. Ruparel and Company (Delhi)	APPELLANT
Vs	
S. Avtar Singh Puri (Decd.) Thr. Lrs. and Others	RESPONDENT

Date of Decision : 20-02-2009

Acts Referred:

Delhi Rent Control Act, 1958 — Section 14(1)(e), 14D, 23(1)(a)(i), 25B, 25B(8)

Citation : (2009) 4 ILR Delhi 179

Hon'ble Judges : Manmohan, J

Bench : Single Bench

Advocate : V.B. Andley, with Mr. Rajinder Mathur and Ms. Anu Mathur, for the Appellant; Sunita Harish, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan, J.—The present Revision Petition has been filed by the petitioner u/s 25(B-8) of the Delhi Rent Control Act, 1958 (hereinafter referred to as "the DRC Act") for setting aside the eviction order dated 8th October, 1997 passed by the Additional Rent Controller, Delhi in eviction petition being E No. 196/1979 filed u/s 14(1)(e) read with Section 25B of the DRC Act. The material facts of this case are that on 9th August, 1979 Avtar Singh Puri, Jagmeet Singh Puri and Jasmeet Singh Puri, filed an eviction petition u/s 14(1)(e) read with Section 25B of the DRC Act against the petitioner for eviction from first and second floors of the property bearing No. XVI 8320, W.E.A., New Delhi, which is also known as 22, Guru Gobind Singh Marg (New Rohtak Road), New Delhi - 110 005 (hereinafter referred to as "suit premises").

2. On petitioner's filing an application for grant of leave to contest the eviction petition, the ARC on 8th September, 1980 granted leave to defend.

3. On 20th November, 1980, petitioner filed a written statement challenging the respondents' ownership and their bona fide requirement on the ground that the premises were let out for residential-cum-commercial purposes and had been

used as such, since the inception of the tenancy. It was contended that the ground floor of the property was occupied entirely by Avtar Singh and his wife. It was further stated that Jagmeet Singh, his wife and children (two daughters) were living in a very big house at Ambala where he had a big and vast agricultural farm and that he did not want to shift to Delhi. It was contended that even Jasmeet Singh at the time of filing of the petition was unmarried and entire ground floor accommodation consisting of six large bedrooms, one drawing room, dining room, Puja room, offices and study room, kitchen, three bathrooms, one servant room and three large verandahs was sufficient for the entire family and the alleged requirement was malafide.

4. However, on 8th October, 1997, the ARC passed an eviction order against the petitioner. The relevant observations of the ARC's order are reproduced hereinbelow:

5.....It is sufficiently established that at present, the petitioners 1, 2 and 3 are the co-owners of the said property; and even paying house tax in respect of the said property to the MCD; the property stands mutated in their name in the records of the DDA and in the Revenue records. This is sufficient to establish that the petitioners were the joint owners of the property as against the respondent.....I, thus, hold that the petitioners are the owners of the said property as against the respondent and could have filed this petition validly against the respondent.

6.....It has thus been established on record by way of documentary evidence of the petitioner that the premises had been let out to the respondent for Residential purpose.

7.....In this case also, I hold the same opinion that the petitioner No. 3 has filed this petition for bonafide requirement of the said premises for his residence alongwith his family in his independent capacity as the co-owner of the suit premises and not only as the son of the petitioner No. 1. In any case, the requirement of the petitioner No. 1 to have his only surviving son to live with him cannot be said to be malafide. Petitioner No. 3 had appeared in the witness box as AW4 and had testified that he had shifted out of the suit premises due to paucity of accommodation and he wanted to come back and reside in the suit premises (Later on it is admitted by the respondent that he was now residing in the suit premises). It has also come on record that the relations between the petitioner No. 3 as his wife were not cordial and his wife and daughter were not residing with him.

8.....It is noted that the respondent had not filed any site plan to counter the said site plan. It is the admitted case of the parties that the ground floor of the premises is in occupation of the petitioners while the first floor and second floor of the said premises are in occupation of the respondent.....On the other hand, it is pleaded by the respondent that the petitioners were in possession of six bed rooms,.....

9.....It has thus emerged on record that the petitioners have two bed rooms, one guest room and two prayer rooms besides the study and office, drawing-dining room, kitchen, lavatories available to them on the ground floor. The petitioner has also admitted that bed rooms Mark A available to them in the Annexe on the ground floor, besides the said accommodation which is used by their domestic servant. On the other hand, the reasonable requirement of the petitioners according to their status and standard of living is one room for the petitioner No. 1 himself, one bed room for the widow of petitioner No. 2, another bed room for the widowed daughter of petitioner No. 2, one bed room for petitioner No. 3 and his wife, at least one room for the daughter of petitioner No. 3 and the second daughter of petitioner No. 2 besides a guest room. The requirement of the petitioner for two prayer rooms in the light of his religious doctrine and his religious sentiments cannot be denied to him. It is for the petitioner to use his premises in the manner he chooses. The court cannot dictate to the petitioner how he should live and to what use should be put every portion of his premises. I am, thus, of the opinion that the petitioner requires more space for the bonafide residence in the said premises. The eviction petition is, thus, allowed. I am of the opinion that the petitioners have established their case u/s 14(1)(e) of DRC Act. Eviction order is hereby passed. The respondent is directed to hand over the vacant possession of the premises No. 1 & 2 XVI/8320, W.E.A., New Delhi comprising of entire first floor consisting of six large living rooms, three bath rooms, W.C., a kitchen, store rooms & four large deep verandah and entire second floor consisting of two large living rooms, one barsarti, one bath room-cum-WC and a store room and a large terrace as shown red in Ex. AW 1/1 to the petitioner within six months from today. File be consigned to record room.

(emphasis supplied)

5. Aggrieved by the impugned order dated 8th October, 1997, petitioner filed the instant Civil Revision being No. 101 of 1998.

6. Mr. V.B. Andley, learned Senior Counsel for the petitioner stated that he did not want to impugn the eviction order on any of the issues decided by the ARC. However, he submitted that in view of the subsequent events, that had taken place after filing of the present revision petition, the bona fide necessity of the respondents/landlords has evaporated and consequently the respondents were not entitled to an eviction order. Mr. Andley drew my attention to the landlords' pedigree table:-

7. Mr. Andley submitted that during the pendency of the present petition, the following changes had taken place:-

(A) (i) Avtar Singh Puri died on 9th January, 1998. After the death of Avtar Singh Puri, his alleged study room measuring 18"x10"-6 is available as a bed room or a living room and his alleged office room measuring 15"x6" is also available as a bed room or a living room.

(B) (i) Jagmeet Singh Puri died on 21st July, 1987 leaving his widow Jaspinder Kaur and two daughters Mahima Puri and Parleen Puri.

(ii) Mahima Puri was married in 1987 and started living in the house of her in laws and gave birth to one daughter namely Vinni in or about 1989-1990.

(iii) Husband of Mahima Puri died. Mahima Puri filed an eviction petition bearing No. E-109/04, against the tenant M/s. Ruparel & Co. (Delhi) on the ground of personal requirement u/s 14D of DRC Act but it was dismissed.

(iv) Mahima Puri left husband's house and left her daughter Vinni with her mother Jaspinder Kaur. Probably she has married another gentleman and is living with him.

(v) Parleen Puri also got married and is living with her husband Mr. Ravjeet Singh at 8344, Saloma Avenue, Panorama City CA 91402 USA.

(vi) Jaspinder Kaur and Vinni alone were in occupation of a portion of the ground floor of the suit property.

(vii) Jaspinder Kaur has entered into an agreement to sell her undivided share in the suit property on 28th July, 2005.

(C) (i) Jasmeet Singh (respondent No. 3) acquired vacant possession of the entire second floor of premises 11 Hemkunt Colony, New Delhi,

(ii) Jasmeet Singh shifted to premises No. S-69, Greater Kailash, Part-II, New Delhi having two bedrooms, drawing, dinning, study room, kitchen and bath.

(iii) Jasmeet Singh got married and a female child was born to him.

(iv) Jasmeet Singh divorced his wife.

(v) Jasmeet Singh married Manpreet Puri and is living at C-7/808, May Fair Tower, Charmwood Village, Surajkund, Badarpur Road, Faridabad.

(vi) Flat No. C-7/808, May Fair Tower, Charmwood Village Surajkund, Badarpur Road, Faridabad has been purchased by Jasmeet Singh in the name of Swapana Investments (P) Ltd. of which he is the Managing Director.

(vii) Gunwant Kaur wife of Avtar Singh also died on 12th October, 1990.

8. Mr. Andley further drew my attention to registered Sale Deeds dated 26th December, 2007 executed by the respondent Nos. 4, 2(a) and 2(b) in favour of Brij Bhushan Gupta and R.C. Arora. He stated that the said respondents had delivered possession of entire ground floor to the said purchasers.

9. In support of proposition that subsequent events can be looked into Mr. Andley relied upon the following judgments:-

(A) Hasmat Rai and Another Vs. Raghunath Prasad, , wherein the Hon''ble Supreme Court has observed as under:-

13. The difficulty which the High Court experienced was whether a tenant under a decree of eviction could invite the Court to take into consideration the events subsequent to passing of the decree which if noticed would non-suit the landlord.

14.....If he commences the proceedings for eviction on the ground of personal requirement he must be able to allege and show the requirement on the date of initiation of action in the Court which would be his cause of action. But that is not sufficient. This requirement must continue throughout the progress of the litigation and must exist on the date of the decree and when we say decree we mean the decree of the final court. Any other view would defeat the beneficial provisions of a welfare legislation like the Rent Restriction Act. If the landlord is able to show his requirement when the action is commenced and the requirement continued till the date of the decree of the Trial Court and thereafter during the pendency of the appeal by the tenant if the landlord comes in possession of the premises sufficient to satisfy his requirement, on the view taken by the High Court, the tenant should be able to show that the subsequent events disentitled the plaintiff, on the only ground that here is tenant against whom a decree or order for eviction has been passed and no additional evidence was admissible to take note of subsequent events. When a statutory right of appeal is conferred against the decree or the order and once in exercise of the right an appeal is preferred the decree or order ceases to be final. What the definition of tenant" excludes from its operation is the person against whom the decree or order for eviction is made and the decree or order has become final in the sense that it is not open to further adjudication by a court or hierarchy of courts. An appeal is a continuation of suit. Therefore a tenant against whom a decree for eviction is passed by Trial Court does not lose protection if he files the appeal because if appeal is allowed the umbrella of statutory protection shields him. Therefore it is indisputable that the decree or order for eviction referred to in the definition of tenant must mean final decree or final order of eviction. Once an appeal against decree or order of eviction is preferred the appeal being a continuation of suit, the landlord's need must be shown to continue to exist at appellate stage. If the tenant is in a position to show that the need or requirement no more exists because of subsequent events, it would be open to him to point out such events and the Court including the appellate court has to examine, evaluate and adjudicate the same. Otherwise the landlord would derive an unfair advantage. An illustration would clarify what we want to convey. A landlord was in a position to show that he needed possession of demised premises on the date of the suit as well as on the date of the decree of the trial court. When the matter was pending in appeal at the instance of the tenant, the landlord built a house or bungalow which would fully satisfy his requirement. If this subsequent event is taken into consideration, the landlord would have to be non-suited. Can the court shut its eyes and evict the tenant? Such is neither the spirit nor intendment of Rent Restriction Act which was enacted to fetter the unfettered right of re-entry. Therefore when an action is brought by the landlord under Rent Restriction Act for eviction on the ground of personal requirement,

his need must not only be shown to exist at the date of the suit, but must exist on the date of the appellate decree, or the date when a higher court deals with the matter. During the progress and passage of proceeding from court to court if subsequent events occur which if noticed would non suit the plaintiff, the court has to examine and evaluate the same and mould the decree accordingly. This position is no more in controversy in view of a decision of this Court in Pasupuleti Venkateswarlu where Justice Krishna Iyer speaking for the Court observed as under: (SCC p 772, para 4)

We affirm the proposition that for making the right or remedy claimed by the party just and meaningfully as also legally and factually in accord with the current realities, the court can, and in many cases must, take cautions cognisance of events and development subsequent to the institution of the proceeding provided the rules of fairness to both sides are scrupulously obeyed.

In order to fully evaluate the law laid down in the aforementioned extracted passage it is worthwhile to give the background of facts in which it was made. The appellant landlord in that case was the owner of a large building which was leased out in separate portions to several tenants. One of such tenants was the respondent. The landlord wanted to start a business in automobile spares and claimed eviction of the respondent under the Rent Restriction Act being Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960. The petition was resisted and the Rent Controller dismissed the petition. The appeal of the landlord failed. But in revision the High Court chose to remand the case to the appellate authority and the appellate authority in turn remitted the case to the Trial Court for fresh disposal in accordance with certain directions. The landlord preferred a revision petition against the order of remand by the first appellate court. The High Court dismissed the action of the landlord taking cognisance of a subsequent event namely that the landlord acquired possession of a reasonable suitable non-residential building in the same town. In appeal to this Court it was seriously contended that it was improper for the High Court to take into consideration the subsequent events and this contention was negatived inter alia on the ground in the passage extracted above. Therefore, it is now incontrovertible that where possession is sought for personal requirement it would be correct to say that the requirement pleaded by the landlord must not only exist on the date of the action but must subsist till the final decree or an order for eviction is made. If in the meantime events have cropped up which would show that the landlord's requirement is wholly satisfied then in that case his action must fail and in such a situation it is incorrect to say that as decree or order for eviction is passed against the tenant he cannot invite the court to take into consideration subsequent events. He can be precluded from so contending when the decree or order for eviction has become final. In view of the decision in Pasupuleti's case the decision of the Madhya Pradesh High Court in Taramal's case must be taken to have been overruled and it could not be distinguished only on the ground that the definition of "tenant" in the Madhya Pradesh Act is different from the one in Andhra Pradesh Act. Therefore, the High Court was in

error in declining to take this subsequent event which was admittedly put forth in the plaint itself into consideration.

(emphasis supplied)

(B) Variety Emporium Vs. V.R.M. Mohd. Ibrahim Naina, , wherein the Hon''ble Supreme Court has observed as under:

15.....The position which thus emerged for the first time when the civil revision petition was being argued before the High Court was that, the landlord had succeeded finally in obtaining orders for eviction against 3 out of the 4 tenants on the ground floor and 1 out of the 3 tenants on the first floor. This position had undoubtedly brought about a change in the state of affairs which existed at the inception of the ejectment proceedings and which existed partly during the pendency of the proceedings before the Appellate Authority. Basing himself on the change in the factual position which had come about after the Appellate Authority gave its decision, the appellant argued before the High Court that the subsequent events ought to be taken into account for the purpose of finding out whether the landlord still inquired the shop premises in possession of the appellant, which, it would appear, admeasure about 308 square feet. That contention was brushed aside by the High Court with the short order extracted above.

16. No "authority is needed for the proposition that, in appropriate cases, the Court must have regard to events as they present themselves at the time when it is hearing the proceeding before it and mould the relief in the light of those events. We may, however, draw attention to a decision of this Court in Hasmat Rai v. Raghunath Prasad, the ratio of which may be stated thus:

When an action is brought by a landlord for the eviction of a tenant on the ground of personal requirement the landlord's need must not only be shown to exist at the date of the suit, but it must exist on the date of the appellate decree, or the date when a higher Court deals with the matter. During the progressed passage of proceeding from court to court, if subsequent events occur which, if noticed, would non-suit the landlord, the court has to examine and evaluate those events and mould the decree accordingly. The tenant is entitled to show that the need or requirement of the landlord no more exists by pointing out such subsequent events, to the court, including the appellate court. In such a situation, it would be incorrect to say that as a decree or, order for eviction is passed against the tenant he cannot invite the Court to take into Consideration subsequent events. The tenant can be precluded from so contending only when a decree or order for eviction has become final. (See Head-note, pages 606-607).

Justice R.S. Pathak. who concurred with Justice D.A. Desai and Justice Venkataramiah, expressed the same view thus:

It is well settled now that in a proceeding for the ejectment of a tenant on the ground of personal requirement under a statute controlling the eviction of

tenants, unless the statute prescribes to the contrary, the requirement must continue to exist on the date when the proceeding is finally disposed of either in appeal or revision, by the relevant authority. That position is indisputable. (See page 624 : SCC p. 119).

17. The High Court having failed to consider the circumstances which had arisen before it for the first time, it becomes our duty to have regard to them. Having considered the evidence in the case, particularly the fact that the landlord has obtained decrees for possession against 3 out of the 4 tenants on the ground floor and 1 out of the 3 tenants on the first floor, we do not see any justification for evicting the appellant from the premises in his occupation. The landlord's requirement, such as it is, is more than adequately met by the eviction of those 4 tenants.

(emphasis supplied)

(C) K.R. Raman Nambdi vs. S.A. Khaliq reported in 1970 RCR 239, wherein it has been held as under:

7.....If the landlord obtains an order of eviction against the petitioner-tenant and during the pendency of an appeal against the order of such eviction, the property is sold by the landlord, the lower appellate court would be entitled to take notice of such transfer and if the eviction is based on the ground that the landlord requires the premises for his own use, then no longer will that fact be available to the transferee. Similarly, comparative hardship which may exist at a particular stage may not be there at a later stage when an effective order of eviction is required to be passed. Therefore, it cannot be laid down as an invariable rule that the condition that existed on the date of the application for eviction should alone be the guiding factor in deciding the comparative hardship between the parties.....

10. On the other hand Ms. Sunita Harish, learned counsel for respondents No. 3 submitted that once trial is over and judgment is pronounced, no new circumstances can be considered. According to her, what is to be seen is the cause of action which was prevalent at the time of filing the petition. She submitted that subsequent events cannot form basis of a decision in revision proceedings. For this proposition, Ms. Sunita Harish relied upon the following judgments:

(A) Anoop Singh (Dead) by LRs vs. K.N. Garg, reported in (2006) 13 SCC 291, wherein the Hon"ble Supreme Court has observed as under:-

4.....The revision petition was filed before the High Court under sub-section (8) of Section 25-B of the Delhi Rent Control Act, 1958 (for short "the Act"). Under the proviso to sub-section (8) of Section 25-B of the Act, the High Court, in order to satisfy that an order made by the Rent Controller was in accordance with law or not, could examine the matter. The scope of the revision petition filed before the High Court was only to see whether there was any error of law in the

order passed by the Rent Controller and it could not reappraise the evidence unless the finding of fact recorded by the Rent Controller was a perverse one.....This Court set aside the order on the ground that there being nothing to show that the finding recorded by the Rent Controller was a perverse one, the High Court was not justified in reversing the same while exercising its powers conferred upon it under the proviso to Section 25B(8) of the Act.

(emphasis supplied)

(B) Carona Ltd. Vs. Parvathy Swaminathan and Sons, , wherein the Hon''ble Supreme Court has observed as under:-

42. In our judgment, the law is fairly settled. The basic rule is that the rights of the parties should be determined on the basis of the date of institution of the suit. Thus, if the plaintiff has no cause of action on the date of the filing of the suit, ordinarily, he will not be allowed to take advantage of the cause of action arising subsequent to the filing of the suit Conversely, no relief will normally be denied to the plaintiff by reason of any subsequent event if at the date of the institution of the suit, he has a substantive right to claim such relief.

(emphasis supplied)

(C) Usha P. Kuvelkar and Others Vs. Ravindra Subrai Dalvi, , wherein the Hon''ble Supreme Court has observed as under:-

11. It was tried to be argued by the learned counsel for the respondent that since the landlord had died, the need had expired with him and that the question will have to be examined again regarding the bonafide personal need of the landlord. The question is no more res Integra and is covered by the decision of this Court in Shakuntala Bai and Others Vs. Narayan Das and Others, . This Court has observed:

.....The bonafide need of the landlord has to be examined as on the date of institution of the proceedings and if a decree for eviction is passed, the death of the landlord during the pendency of the appeal preferred by the tenant will make no difference as his heirs are fully entitled to defend the estate.

In the same decision a contrary note expressed by this Court in P.V. Papanna and others Vs. K. Padmanabhaiah, was held to be in the nature of an obiter. This Court in Shakuntala Bai & Ors. (supra) referred to the decision in Shantilal Thakordas and Others Vs. Chimanlal Maganlal Telwala, and specifically observed that the view expressed in Shantilal Thakordass case did not, in any manner, affect the view expressed in Phul Rani and Others Vs. Sh. Naubat Rai Ahluwalia, to the effect that where the death of landlord occurs after the decree for possession has been passed in his favour, his legal heirs are entitled to defend the further proceedings like an appeal and the benefit accrued to them under the decree. Here, in this case also it is obvious that the original landlord Prabhakar Govind Smai Kuvelkar had expired only after the eviction order passed by the Additional Rent Controller. This is apart from the fact that the landlord had

sought the possession not only for himself but also for his family members. There is a clear reference in Section 23(1)(a)(i) of the Act regarding occupation of the family members of the landlord. In that view the contention raised by the learned counsel for the respondent must be rejected.

(emphasis supplied)

(D) Dharam Pal Gupta & Ors. vs. Anand Prakash, reported in 155 (2008) DLT 681, wherein a learned Single Judge of this Court has observed as under:

7. There is no doubt that the view of the Supreme Court earlier had been that subsequent events should be taken into account however, the way the litigation in eviction matters has been taking decades, this view has now changed and the Supreme Court in recent judgment Usha P. Kuvelkar vs. Ravindra Subrai Dalvi 2008(1) RLR 63, has observed as under:

It was tried to be argued by the learned counsel for the respondent that since the landlord had died, the need had expired with him and that the question will have to be examined again regarding the bona fide personal need of the landlord. The question is no more res integra and is covered by the decision of this Court in Shakuntala Bai and Others Vs. Narayan Das and Others, . This Court has observed:

...The bona fide need of the landlord has to be examined as on the date of institution of the proceedings and if a decree for eviction is passed, the death of the landlord during the pendency of the appeal preferred by the tenant will make no difference as his heirs are fully entitled to defend the estate.

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8. In Carona Ltd. Vs. Parvathy Swaminathan and Sons, , the Supreme Court considered the impact of subsequent events on the eviction decree and held as under:

37. In our judgment, the law is fairly settled. The basic rule is that the rights of the parties should be determined on the basis of the date of institution of the suit. Thus, if the plaintiff has no cause of action on the date of the filing of the suit, ordinarily, he will not be allowed to take advantage of the cause of action arising subsequent to the filing of the suit. Conversely, no relief will normally be denied to the plaintiff by reason of any subsequent event if at the date of the institution of the suit, he has a substantive right to claim such relief.

9. The proposition that subsequent events should be taken into account may look attractive however, it is totally unjust proposition because most of the time only subsequent events of the landlord are placed before the Courts and subsequent events of tenant/tenant's family are never taken into account. As in this case, the original tenant had died, the rent of the premises has not been paid since 1992 and whether the premises is actually being used or not nobody knows. Normally, in such premises nobody resides and they are kept under lock and key. The deceased tenant's family also grew with time as his 5 LRs have been mentioned in the LRs application itself. It is obvious that they all would not be living in one room; all of them would be having separate profession/business and would have acquired their own premises and living separately. The landlord, who had given one room on rent say on Rs. 50 or Rs. 60 per month years ago would have no means to know the developments in the family of the tenant, unless he is living in the same premises or in adjoining area and is close to the tenant's family. He would not know what different business interests the tenant's sons had acquired, what different properties the tenant's other family members had acquired; these things can only be found by investigating agencies. A person receiving rent of Rs. 50 or Rs.60 per month would not like to spend Rs. 30,000-40,000 on investigating agency just to find out the present status of tenant's family. Most of the time tenants do not disclose their own growth, their own acquisitions of different premises either for residence or business and the premises are kept under lock and key only for the purpose of extracting money from the landlord at the time of vacating the premises, keeping in view of the fact that it takes 20-30 years in final culmination of a litigation in India. This is only one aspect. The other aspect of changing circumstances is that the person in dire necessity of premises for his bona fide requirement, files eviction petition under so-called summary procedure evolved by the legislature and this so-called summary procedure takes years and years and years in final culmination. The present Revision itself is pending in the Court since 2000 and has taken 08 years. During pendency of this Revision Petition, not only the father of the landlord/respondent had died but on the other hand the circumstances of tenant's family also changed and original tenant died. The litigation in Courts progresses at snail's pace. The judicial system, which is not alive to the urgent bona fide requirements of a landlord, cannot keep time standstill and cannot mandate that so long as the case is not decided, nothing shall happen in the world of landlord and tenant. Time does not wait for anybody, not even for Courts. The children of the landlord will grow. Finding that their own premises

was under tenancy and was not being vacated despite litigation, they need not wait for 20 years to meet their requirement and are bound to make some alternate arrangements for themselves or for the other family members. It is highly unjust that the Court should not decide the matter within time bound limit and then take into account the change in circumstances of the landlord or tenant.

10. The span of 10-20 years, which is normally spent in eviction petitions, is long enough to change the circumstances in the life of anyone and with every change in circumstances, like growth in family or reduction in the family or death or marriage in the family, a new cause of action would arise during pendency of the Revision or Appeal and a de novo trial shall again start and in this manner no petition can come to an end during the lifetime of any person. I, therefore consider that the Court has only to look into the cause of action which was available at the time when eviction petition was instituted. Once the trial is over and judgment is pronounced no new circumstance can be considered either during revision or appeal.

11. Taking into consideration the subsequent events in fact has encouraged parties to prolong the case on one or the other pretext waiting for something to happen. If the landlord is old and ill enough the tenant keeps on dragging the petition waiting for landlord to die so that the entire cause of action evaporates. The dragging of petition is so easy in the Court that the whole purpose of filing the petition gets frustrated. I, therefore, consider that the subsequent events in the eviction petitions cannot form basis of decision in the revision and the Court has to stick to the cause of action which was there at the time of filing the petition. The subsequent events highly prejudice only one side because the subsequent events of the other side are always in dark. The argument of the petitioner is not tenable.

(emphasis supplied)

11. Without prejudice to the aforesaid, she stated that Jasmeet Singh is working in a multinational company and is a part of senior management at Delhi and he bonafidely requires residential premises for his family's residence, commensurate with his professional and social status. According to learned Counsel, he requires a minimum of one drawing room, one dining room, three bed rooms with attached bathroom, one for himself and his wife, the other for his daughter and the third bed room for his old and sick mother-in-law, a kitchen, a store, a prayer room and a guest room. She further stated that one room is required for keeping Sacred Shoes of Guru Gobind Singh Ji and Mats Sahiba (Jore Saheb) where homage can be paid by family and public at large, that is, for Darshana and Seva, Another room is required for Sangat that comes for Darshana, Kirtan and for staying overnight, one room for stay of pathi and a kitchen for Parsad etc. is also required apart from a toilet and a bathroom. She drew my attention to the Will and Codicil executed by Jasmeet Singh's father, late Mr. A.S. Puri. In the Will Mr. A.S. Puri has stated as under:-

4(ii)....., the most valuable, exquisite and unique possession in our family for the last three centuries is a pair of leather shoes, comprising of right foot shoe of size 11" x 3?" of Guru Gobind Singh Ji and left foot shoe of size 9"x3" of Mataji SAHIB KAUR. This pair is commonly known as "Holy Jore Sahib" and were bestowed by Guru Sahib himself in 1704 A.D. at Anandpur Sahib on our ancestors, Bhai Annar Singh Ji and Bhai Rocha Ram Ji, two brothers from Village Dhamial which is situated about 3 miles South East of Rawalpindi Railway Station, for devoted services rendered by them to the congregation.....

(iv) The Holy, "Jore Sahib" remained and were reverently maintained by our family for about 2? centuries at DHAMIAL VILLAGE till August 1947 when due to partition of India, there were widespread communal riots all over Punjab. My uncle, Sardar Uttam Singh Duggal, carried these "Jore Sahib" from the village to my father at Rawalpindi and he, inturn, brought them, by air, to me at Delhi, where I was then posted. They are now with us for about half a century and are kept at my house No. 22, New Rohtak Road, New Delhi, which name was later changed by the Government to "Guru Gobind Singh Marg, New Delhi". This address has since spread far and wide in and outside India. People from all over visit to offer their obeisance. Traditionally, they are being reverently maintained by succession, by male members of "PURI" family from the same stock. The families concerned require that these "Holy Shoes" be maintained and served in the same room, as at present at the ground floor of the same building on the Guru Gobind Singh Marg, New Delhi.

6(i) It would be essential for Jasmeet Singh to maintain his residence in a part of the house so as to render proper and prompt service to "Jore Sahib", supervision of the property and due attention to the visitors.

In the Codicil Mr. A.S. Puri stated as under:-

My Son Jasmeet Singh Puri shall create a Trust in the name of Holy Jore Sahib Trust and shall also house all my antiques, curios collected during my life time and shall be at liberty to look for alternative place for offering prayers by the devotees and shall take the services of my son-in-law Jotinder Singh Bubber, my Advocate Shri Anil Sharma and any other person to his requirement as Life Trustees in the said Trust. However, the decision of my sons shall be final and binding upon all the other Trustees and under any circumstances the Holy Jore Sahib are not to be given to any other religious institution, sect etc.

12. As far as sale of 2/3rd undivided share by Smt. Jaspinder Kaur was concerned, Ms. Sunita Harish submitted that the same was void inasmuch as the same was in violation of the status-quo order passed by this Court in Probate Case No. 15/1998. The said status-quo order is reproduced hereinbelow:-

PR 15/98 & I.As. 2610-2611/98

Learned counsel appearing on behalf of respondents 6, 7 & 8 states that reply is being filed during the course of the day. Let the same be filed during the course

of the day.

List the matter for disposal of all the pending I.As. on 24.7.1998.

In the meanwhile all the parties are directed to maintain status quo and shall not create any third party interest till the next date of hearing.

May 18, 1999

13. Moreover, she stated that Smt. Jaspinder Kaur and her family owned only 1/3rd undivided share in the property and not 2/3rd. She further pointed out that the possession of Ground Floor of property was with Jasmeet Singh under his lock and key and not with any alleged buyer. The house was locked at present to facilitate police investigation into theft and robbery of priceless articles therefrom.

14. Ms. Sunita Harish drew my attention to Jasmeet Singh's affidavit wherein he has categorically averred that he had no other residential accommodation at Delhi/New Delhi. She pointed out that it was almost twenty years since the petition for eviction was filed and that Jasmeet's need was genuine and that it had only increased with time. Consequently, she prayed for present petition's dismissal.

15. Having heard the parties at length, I am of the view that the first issue that arises for consideration in the present case is whether subsequent events can be taken into consideration. On a perusal of file, I find that petitioner in the present petition had filed an application being CM No. 11920/2008 for taking into consideration the subsequent events. Along with said application, petitioner had also filed certified copies of registered sale deeds dated 26th December, 2007 executed by respondent No. 4, 2A and B in favour of Brij Bhushan Gupta and R.C. Arora. However, the said application was dismissed by my learned Predecessor vide order dated 22nd August, 2008 by observing that subsequent events occurring after passing of trial court order cannot be looked into. The order dated 22nd August, 2008 is reproduced hereinbelow for ready reference:-

CM No. 11920/2008

This application has been made by the petitioner u/s 151 for taking into account subsequent events in a Revision Petition filed by the petitioner.

The scope of jurisdiction of this Court while considering a Revision Petition is limited to the extent whether the order passed by the lower Court was passed in accordance with law and the Trial Court had not transgressed its jurisdiction.

This Court has to consider the order of the Trial Court on the basis of the cause of action, evidence and material which was placed before the Trial Court. This Court while seeing the legality of order cannot take into account the subsequent events which occurred after passing of the order of the Trial Court.

In Carona Ltd. Vs. Parvathy Swaminathan and Sons, , Supreme Court observed as under:-

42. In our judgment, the law is fairly settled. The basic rule is that the rights of the parties should be determined on the basis of the date of institution of the suit. Thus, if the plaintiff has no cause of action on the date of the filing of the suit, ordinarily, he will not be allowed to take advantage of the cause of action arising subsequent to the filing of the suit. Conversely, no relief will normally be denied to the plaintiff by reason of any subsequent event if at the date of the institution of the suit, he has a substantive right to claim such relief.

16. Petitioner in its written submission filed before this Court has admitted that even the petitioners' SLP being SLP(C) No. 27430/2008 against the order dated 22nd August, 2008 was dismissed by the Hon'ble Supreme Court. The order passed by the Hon'ble Supreme Court in the above mentioned SLP, as available on the website of the Supreme Court of India, is reproduced hereinbelow:-

Heard learned senior counsel appearing for the petitioners.

In the facts and circumstances of the case, we are not inclined to interfere with the impugned order passed by the High Court. The SLP is, accordingly, dismissed.

17. In any event, I find that the basic judgment relied upon by the petitioner in support of its submission that subsequent events can be looked into is Hasmat Rai & Another (supra) as the same has only been followed in Variety Emporium (supra). However, Hasmat Rai (supra) has been considered in detail by my learned Predecessor, Mr. Justice S.N. Dhingra in Dharam Pal Gupta's case (supra) wherein he has concluded that Court has only to look into the cause of action which was available at the time when eviction petition was instituted. Judicial discipline and propriety requires that I follow the judgment of a Coordinate Bench, specially, when at the interim stage brother Mr. Justice S.N. Dhingra had dismissed petitioner's application to take subsequent events into account. The said order has attained finality as even the SLP against the said interim order has been dismissed. In my opinion, the dismissal of petitioner's SLP by the Apex Court for taking subsequent events into account clinches the issue and this Court cannot look into subsequent events.

18. Even though I have concluded that subsequent events cannot be looked into, I am of the view that Mr. Jasmeet Singh requires for his personal use commensurate with his professional and social status one bed room for himself and his wife, one room for his daughter and one room for his mother-in-law with three attached bathrooms, one drawing room, one dining room, one guest room, one office room and one kitchen. For discharging the obligations cast upon him by his father's Will and Codicil, Mr. Jasmeet Singh requires one room for "Holy Jore Sahib", one room for Sangat, one room for stay of Pathi, one kitchen for cooking Parsad. Thus Jasmeet Singh's requirement is not satisfied with the accommodation available on the Ground Floor. I am further of the opinion that in view of the categorical assertion by Mr. Jasmeet Singh on affidavit that he has not purchased the properties mentioned in petitioner's affidavit, it cannot be assumed that respondent has acquired alternative accommodation.

19. Moreover, it is settled law that Court cannot dictate to a landlord as to how he should live and to what use he should put each and every portion to. In *Devi Ram and Others Vs. Ram Kapoor*, , it was held that the landlord is entitled to assess the need and requirement for himself and his other family members. Neither the court nor the tenant can dictate to him the mode and manner in which he should live or to prescribe for him a residential standard of their own. Consequently, in my view respondent No. 3 requires the suit premises for his own bona fide need and the present Revision Petition, being devoid of merits, is dismissed with costs of Rupees Twenty Five Thousand.