

(2017) 10 AHC CK 0002
In the Allahabad High Court
Case No : 4555 of 2017

Roop Ram And 4 Others

APPELLANT

Vs

Smt. Geeta Rani And 3 Others

RESPONDENT

Date of Decision : 06-10-2017

Acts Referred:

Constitution of India, Article 227 - Power of superintendence over all courts by the High Court
Code of Civil Procedure, 1908, Section 47, Order 21Rule 97 - Questions to be determined by the Court executing decree
Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972, Section 21(1)(a)

Citation : (2017) 10 AHC CK 0002

Hon'ble Judges : Surya Prakash Kesarwani

Bench : Single Bench

Advocate : Sangam Singh, Anubhav Chandra, Puneet Bhadauria

Final Decision : Dismissed

Judgement

1. Heard Sri Sangam Singh, learned counsel for the petitionersdefendants/tenants and Sri Ashish Agrawal, learned counsel for the respondents-plaintiffs/landlords. Facts of the Case

2. Briefly stated facts of the present case are that undisputedly the plaintiff-respondent no. 1 is the owner and landlord of the disputed shop of which the petitioner-defendant No.1 was the tenant and after his death the tenancy was succeeded by his heirs and legal representatives being petitioner Nos. 1/1 to 1/4. The disputed shop situate in Sadar Bazar, Homeganj, Kasba, Pargana and District Auraiya was purchased by the plaintiffs-respondents by a registered sale deed dated 14.11.1990. The release application under Section 21(1)(a) was filed by the plaintiffsrespondents on the ground of bona fide need of the disputed shop for starting business by his adult unemployed son. The said application was registered as P.A. Case No.04 of 2009 (Smt. Geeta Rani Vs. Roop Ram) which

was allowed by judgment dated 20.11.2014, passed by the Civil Judge (S.D.)/ Prescribed Authority, Auraiya. Against the said judgment the petitioners-defendants filed P.A. Appeal No.04 of 2014 (Roop Ram(dead) Vs. Smt. Geeta Rani and others) which was dismissed by judgment dated 5.7.2017, passed by the Additional District Judge/F.T.C. No.1, Auraiya.

3. Aggrieved with these judgments the petitioners-defendants have filed this petition under Article 227 of the Constitution of India. Submission of petitioners-Defendants/Tenants

4. Learned counsel for the petitioners-defendants submits as under: (i) The P.A. Case No.04 of 2009 (Smt. Geeta Rani vs. Roop Ram) was instituted before expiry of six months of the notice dated 13.04.2009 and as such in view of the proviso to Section 21(1)(a) of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (hereinafter referred to as "the Act"), the case was premature.

(ii) A specific pleading has been made by amendment in para-22 of the written statement at the Appellate Stage that the P.A. Case was premature. During the course of the argument before the Trial Court, this question was specifically raised by the petitioners-defendants. Therefore, it cannot be said that the petitioners-defendants have ever waived the mandatory requirement of notice for six months for institution of the case under Section 21(1)(a) of the Act.

(iii) There is difference between institution of the case and it being entertained. For the purpose of the proviso to Section 21(1)(a) of the Act, the date of institution of the case has to be seen from the date of notice.

(iv) The notice dated 13.04.2009 does not specify the period of six months. Consequently, the notice itself was defective and the P.A. Case could not have been instituted on the strength of such a notice. Reference in this regard may be had to the judgment of the Hon"ble Supreme Court in the case of Smt. Nazuk Jahan and others vs. Additional District Judge and others (1980) 4 SCC 595. Reference with regard to the interpretation of proviso to Section 21(1)(a) of the Act may be had to the judgment of Hon"ble Supreme Court in the case of Martin & Harris Ltd. vs. 6th Additonal District Judge and others, (1998) 1 SCC 732 (paras-10, 11, 13 & 14) and the judgment of this court in the case of Ravi Kumar and another vs. Tarun Kumar Agrawal and another in Writ-A No.51721 of 2016, decided on 19.12.2016 (pars-3, 10 & 12).

(v) Both the courts below have completely failed to record any finding based on any evidence that the respondents-plaintiffs are in bona fide need of the tenanted premises and comparative hardship. Findings on both the points namely bona fide need and comparative hardship must be decided separately and based on evidences on record which has not been done.

(vi) In the case of Vithalbhai Pvt. Ltd. Vs. Union Bank of India, AIR 2005 SC 1891 (para-23), Hon"ble Supreme Court has carved out five exceptions in which

the discretion for decreeing a premature suit cannot be exercised by a Court. The present case falls among the aforesaid exceptions and therefore, it was not permissible for the court below to exercise the discretion in decreeing the premature suit.

Submissions of the Respondents-Plaintiffs

5. Sri Ashish Agrawal, learned counsel for the respondents-plaintiffs submits as under:- (i) The plea with respect to institution of case after expiry of six months" notice and it being premature on this ground could be raised only at the initial stage namely in the written statement otherwise it shall be deemed to have been waived. If the petitioners-defendants would have raised the question of premature institution of the suit in their written statement then the respondents-plaintiffs/landlords could have withdrawn their suit and would have instituted it after two months but this was intentionally not done by the petitioners-defendants which resulted in waiver to raise their objections. Further the petitioners-defendants contested the matter on merit before the Trial Court for about five years but they did not even make any amendment in their written statement. A conflicting plea by amendment in written statement was taken by them during pendency of the appeal. Therefore, the waiver made by the petitioners-defendants has become absolute and cannot be changed by amendment in the pleadings. That apart, amended pleas of the para-22 of the written statement are self-contradictory.

(ii) The facts of the case of the respondents-plaintiffs is on a better footing than the facts of the case in the matter of Martin & Harris Ltd. (supra) inasmuch in that case there was a pleading in the written statement with regard to premature institution of the case. Para-14 of the judgment of Hon"ble Supreme Court in the case of Martin and Harris (supra) is relevant for the purpose.

(iii) With respect to purpose of notice under Section 21(1)(a) of the Act, reference may be had to the para-15 of the judgment in the case of Martin and Harris Ltd. (supra).

(iv) Even if it is assumed that the suit was filed premature, i.e. before expiry of the period of six months from the date of notice yet it became mature during pendency of the suit and, therefore, the case has been rightly decided on merit by the Trial Court and the Appellate Court. Reference in this regard may be had to the judgment of this court in the case of Rajendra Kumar Agrawal vs. Krishna Gopal, 2012 (11) ADJ 112 (para-4), the judgment of Hon"ble Supreme Court in the case of Vithalbhai Pvt. Ltd. (supra), M/s Pushpa Sahakari Avas Smiti Ltd. Vs. M/s Gangotri Sahakari Avas S. Ltd. and others, 2012 (3) JT 563 (para-12) and Nirbhai Kumar vs. Maya Devi, (2009) 5 SCC 399.

(v) In the case of Hitendra Jain Vs. Vimal Kumar Tripathi, 2014 (8) ADJ 86 (Paras-4, 5 & 6), it has been held that it is not in every case that amendment shall relate back to the date of institution of suit. The addition made by amendment in paragraph-22 of the written statement would be prospective in

nature inasmuch a fresh ground of premature institution of suit was taken for the first time.

(vi) The objection of premature institution of the suit was taken by means of amendment during pendency of appeal, hence the suit instituted was not premature.

(vii) In the case of Misri Lal vs. 9th Additional District Judge, Gorakhpur, 1993 (1) AWC 187 (para-8), this court has held that the proviso to Section 21(1)(a) of the Act does not cast any duty on the landlord to specify in the notice that the tenant should vacate the premises within six months.

(viii) Both the courts below have recorded concurrent finding of fact based on consideration of relevant evidences on record that bona fide need of son for business was established by the respondents-plaintiffs. Comparative hardship was also found to be in favour of the respondents-plaintiffs.

(ix) The petitioners-defendants themselves are owners of two houses in the vicinity of the disputed property and one of them was tenanted which has been released in favour of the petitioners-defendants/ landlord and they have obtained possession thereof. The respondents-plaintiffs were having no commercial place for business by their son, who is unmarried and employment was felt necessary for his marriage.

(x) The petitioners-defendants have not made any effort to search any alternative accommodation.

Discussions and Findings

6. I have carefully considered the submissions of learned counsel for the parties and perused the record.

7. Undisputedly, the plaintiff-respondent no.1 has purchased the disputed shop by a registered sale deed dated 14.11.1990. There is no dispute of landlord-tenant relationship between her and the defendants-petitioners. She gave notice to the defendant-petitioner No.1 on 13.4.2009 terminating the tenancy. Release application being P.A. Case No.04 of 2009 was filed by her on 10.9.2009. Thus the P.A. case was filed before expiry of six months of the notice dated 13.4.2009. The defendant-petitioner filed his written statement in which he had not pleaded that the P.A. Case filed by the plaintiff-respondent no.1 was premature. On the contrary he pleaded that no notice for vacating disputed shop was given by the plaintiff-respondent no.1. On the basis of the pleadings and the evidences on record the aforesaid P.A. Case No.04 of 2009 was decided by the Prescribed Authority/Civil Judge(S.D.), Auria by judgment dated 20.11.2014. Findings of fact regarding bonafide need and comparative hardship of the plaintiff-respondent no.1 was recorded by the Prescribed Authority in favour of the plaintiff-respondent no.1. The defendant-petitioner was directed to vacate the disputed shop and to handover its vacant possession to the plaintiff-respondent no.1 within three months.

8. Undisputedly, there was no pleadings before the Prescribed Authority for the P.A. Case to be premature on the ground of filing the P.A. Case before expiry of six months of the notice. In the case of Rameshwar Lal and another Vs. Raghunath Das and others, 1990 (4) SCC 729, Hon?ble Supreme Court laid down the law that legal arguments bereft of facts are of no consequence. The defendant-petitioner raised oral argument for the P.A. Case to be premature on the ground of filing of the P.A. case before expiry of the six months notice. However, in the written statement he merely pleaded that no notice was issued by the plaintiff-respondent no.1. On these pleadings and arguments, the Prescribed Authority recorded the findings in the judgment dated 20.11.2014 as under : "VERNACULAR MATTER OMITTED"

9. Against the impugned judgment of the Prescribed Authority dated 20.11.2014 the defendant-petitioner filed P.A. Appeal No.04 of 2014 before the Court of Additional District Judge/F.T.C. No. I, Auria. During pendency of the appeal, in the year 2015; the defendant-petitioner filed an Amendment Application whereby he sought to amend his written statement by incorporating the objection of filing of the P.A. Case before expiry of the period of six months from the date of the notice. However, he had not given up his plea in paragraph 22 of the written statement about the allegation of non issuance of notice. Thus on amendment of para 22 of the written statement the pleadings of the defendant-petitioner became self contradictory inasmuch as on one hand he alleged that no notice was given by the plaintiff-respondent no.1 to him and at the same time he pleaded that P.A. Case was filed before one month of the expiry of six months notice.

10. In the present petition, the defendant-petitioner has not disputed the observations of the Prescribed Authority as affirmed by the appellate court that if the defendant-petitioner would have promptly raised the objection of premature filing of the P.A. Case as aforesaid then the plaintiff-respondent no.1 could have withdrawn the P.A. Case and could have presented it after completion of six months period from the date of the notice. This factual aspect of the matter also indicates malifide intention of the defendantpetitioner which is reflected from the pleadings after amendment of para 22 of the written statement. The subsequent stand taken by the defendantpetitioner is hit by principle of approbate and reprobate. He first waived the requirement of six months notice but when the P.A. Case was decided against him then he turned round and took conflicting stand by way of amendment in para 22 of the written statement. The waiver was made by the defendant-petitioner voluntarily and with eyes wide open and, therefore, the waiver made by him can not be allowed to be withdrawn by amendment in para 22 of the written statement.

11. In the case of Smt. Mehar Jahan and 4 others Vs. Mohd. Matlub (Matters under Article 227 No.5334 of 2017) decided on 29.8.2017, this Court held that once the petitioners/tenants have waived the protection of six months notice, they can not withdraw the waiver and raise objections by oral submission during

the course of final argument in the P.A. Case. The question of waiver of notice under the proviso to Section 21(1)(a) of the Act was also considered by Hon^{ble} Supreme Court in the case of Martin and Haris Ltd.(supra) (para 12 and 13) and it was held that the provision for six months notice before the initiation of proceedings under Section 21(1)(a) of the Act, though it is mandatory and confers protection on the tenant concerned; it can be waived by him. In the said case Hon^{ble} Supreme Court found that requirement of notice was waived by the tenant inasmuch as even though he took objection in his written statement but has not raised it at the time of argument. I find that the case of the plaintiff-respondent no.1 stands on a better footing inasmuch as the defendant-petitioner had not taken any objection in the written statement before the Prescribed Authority. During the course of argument he raised oral objection before the Prescribed Authority without there being any pleading or foundation of facts in the pleadings. Thus, he tried to raise legal arguments bereft of pleadings and also tried to withdraw the waiver which was not permissible.

12. In view of facts and legal position as aforementioned, I do not find any illegality in the findings of fact recorded by courts below that the defendant-petitioner has waived the requirement of six months notice/question of premature filing of the P.A. Case.

13. The view taken by Hon^{ble} Supreme Court in the case of Martin & Harris Ltd. (supra) was affirmed by larger bench of Hon^{ble} Supreme Court in the case of Nirbhai Kumar Vs. Maya Devi 2009 (5) SCC 399 observing as under: "3. In Martin and Harris Limited's case (supra) it was held in para 13 as follows:

"It is not possible to agree with the contention of the learned Senior Counsel for the appellant that the provision containing the proviso to Section 21(1) of the Act was for public benefit and could not be waived. It is, of course, true that it is enacted to cover a class of tenants who are sitting tenants and whose premises are subsequently purchased by landlords who seek to evict the sitting tenants on the ground of bona fide requirement as envisaged by Section 21(1)(a) of the Act, still the protection available to such tenants as found in the proviso would give the tenants concerned a locus poenitentiae to avail of it or not. It is easy to visualise that proceedings under Section 21(1)(a) of the Act would be between the landlord on the one hand and the tenant on the other. These proceedings are not of any public nature. Nor any public interest is involved therein. Only personal interest of landlord on the one hand and the tenant on the other hand get clashed and call for adjudication by the prescribed authority. The ground raised by the landlord under Section 21(1)(a) would be personal to him and similarly the defence taken by the tenant would also be personal to him. Six months" breathing time is given to the tenant after service of notice to enable him to put his house in order and to get the matter settled amicably or to get alternative accommodation if the tenant realises that the landlord has a good case. This type of protection to the tenant would naturally be personal to him and could be waived. In this connection we may profitably refer to a decision of

this Court in the case of *Krishan Lal v. State of J & K* [1994 (4)SCC 422] wherein Hansaria, J., speaking for a Bench of two learned Judges has made the pertinent observations concerning the question of waiver of a mandatory provision providing for issuance of notice to the parties sought to be proceeded against by the person giving the notice, in paragraphs 16 and 17 of the Report as under: "16. ... As to when violation of a mandatory provision makes an order a nullity has been the subject-matter of various decisions of this Court as well as of courts beyond the seven seas. This apart, there are views of reputed text writers. Let us start from our own one-time Highest Court, which used to be Privy Council. This question came up for examination by that body in *Vellayan Chettiar v. Govt. of the Province of Madras* [AIR 1947 pc 197] in which while accepting that Section 80 of the Code of Civil Procedure is mandatory, which was the view taken in *Bhagchand Dagadusa v. Secy. of State for India- in-Council* [(1927) 54 IA 338] it was held that even if a notice under Section 80 be defective, the same would not per se render the suit requiring issuance of such a notice as a precondition for instituting the same as bad in the eye of law, as such a defect can be waived. This view was taken by pointing out that the protection provided by Section 80 is a protection given to the person concerned and if in a particular case that person does not require the protection he can lawfully waive his right. A distinction was made in this regard where the benefit conferred was to serve 'an important purpose', in which case there would not be waiver. ?17. This point had come up for examination by this Court in *Dhirendra Nath Gorai v. Sudhir Chandra Ghosh* (AIR 1964 SC 1300) and a question was posed in paragraph 7 whether an act done in breach of a mandatory provision is per force a nullity. This Court referred to what was stated in this regard by Mookherjee, J. in *Ashutosh Sikdar v. Behari Lal Kirtania* (ILR 35 Cal 61) and some other decisions of the Calcutta High Court along with one of the Patna High Court and it was held that if a judgment-debtor, despite having received notice of proclamation of sale, did not object to the non-compliance of the required provision, he must be deemed to have waived his right conferred by that provision. It was observed that a mandatory provision can be waived if the same be aimed to safeguard the interest of an individual and has not been conceived in the public interest." Consequently it must be held that the provision for six months" notice before initiation of proceedings under Section 21(1) of the Act, though is mandatory and confers protection on the tenant concerned, it can be waived by him. On the facts of the present case there is no escape from the conclusion that the appellant, for reasons best known to it, consciously and being alive to the clear factual situation that the suit was filed on that ground prior to the expiry of six months" notice, did not think it fit to pursue that point any further and on the contrary joined issues on merits expecting a favourable decision in the suit and having lost therein and got an adverse decision did not think it fit even to challenge the decision on the ground of maintainability of the suit while filing an appeal and argued the appeal only on merits and only as an afterthought at the stage of writ petition in the High Court such a contention was sought to be taken up for the first time for consideration. On the facts of the present case, therefore, it must be held that the appellant

had waived that contention about the suit being premature having been filed before the expiry of six months from the date of the suit notice."

7. Above being the position the decision in *Martin & Harris Ltd.*'s case (supra) expressed the correct view. Unfortunately, the said decision not appear to have been placed before the Bench which heard *Anwar Hasan Khan*'s case (supra)." (emphasis supplied by me)

14. In the case of *Vithalbhai Pvt. Ltd. Vs. Union Bank of India*, AIR 2005 SC 1891, Hon'ble Supreme Court held that if a suit is filed premature, however, it becomes mature during its pendency then the same will have to be decided on merit similar view has been expressed by Hon'ble Supreme Court in the case of *M/s Pushpa Sahakari Avas Samiti Ltd. v. M/s. Gangotri Sahkari Avas S. Ltd. and others*, 2012 JT(3) SC 563.

15. In the case of *Rajendra Kumar Agarwal Vs. Krishna Gopal*, 2012 (11) ADJ 112 (para 4) this Court considered similar controversy and followed the law laid down by Hon'ble Supreme Court in the case of *Vithalbhai Pvt. Ltd.* (supra) and *M/s.Pushpa Sahakari Avas Samiti Ltd.* (supra) wherein Hon'ble Supreme Court, while considering provisions of Section 47 read with Order XXI Rule 97 C.P.C.; held that premature filing of execution could not entail its rejection. To arrive at the aforesaid conclusion in the case of *M/s.Pushpa Sahakari Avas Samiti Ltd.* (supra) Hon'ble Supreme Court followed its earlier decision in the case of *Vithalbhai Pvt. Ltd.* (supra) and held as under: "9. At the very outset, it may be stated that it is an admitted position that the execution was levied prior to the expiration of the period stipulated in the decree. The executing court, as is evident, has addressed itself to all the objections that were raised in the application and rejected the same. The principal objection relating to the maintainability of the proceeding on the foundation that it was instituted prematurely did not find favour with it. The learned Single Judge has observed that if an execution is premature when it is filed, it is liable to be rejected. Mr. Dwivedi has drawn an analogy between a premature suit and premature execution by placing heavy reliance on the authority in *Vithalbhai (P) Ltd.* (supra). In *Vithalbhai* (supra), while dealing with the premature filing of a suit, a two-Judge Bench of this Court, after referring to a number of decisions of various High Courts and this Court, came to hold as follows:-

"The question of suit being premature does not go to the root of jurisdiction of the court; the court entertaining such a suit and passing decree therein is not acting without jurisdiction but it is in the judicial discretion of the court to grant decree or not. The court would examine whether any irreparable prejudice was caused to the defendant on account of the suit having been filed a little before the date on which the plaintiff's entitlement to relief became due and whether by granting the relief in such suit a manifest injustice would be caused to the defendant. Taking into consideration the explanation offered by the plaintiff for filing the suit before the date of maturity of cause of action, the court may deny the plaintiff his costs or may make such other order adjusting equities and

satisfying the ends of justice as it may deem fit in its discretion. The conduct of the parties and unmerited advantage to the plaintiff or disadvantage amounting to prejudice to the defendant, if any, would be relevant factors."

After so stating, the Bench ruled that the plea as regards the maintainability of the suit on the ground of its being premature should be promptly raised and it will be equally the responsibility of the Court to dispose of such a plea. Thereafter, it was observed as follows:-

"However, the court shall not exercise its discretion in favour of decreeing a premature suit in the following cases:

(i) when there is a mandatory bar created by a statute which disables the plaintiff from filing the suit on or before a particular date or the occurrence of a particular event;

(ii) when the institution of the suit before the lapse of a particular time or occurrence of a particular event would have the effect of defeating a public policy or public purpose;

(iii) if such premature institution renders the presentation itself patently void and the invalidity is incurable such as when it goes to the root of the court's jurisdiction; and

(iv) where the lis is not confined to parties alone and affects and involves persons other than those arrayed as parties, such as in an election petition which affects and involves the entire constituency. (See *Samar Singh v. Kedar Nath* 13.)

One more category of suits which may be added to the above, is: where leave of the court or some authority is mandatorily required to be obtained before the institution of the suit and was not so obtained."

[Emphasis Supplied]

12. In this context, we may refer with profit to the two-Judge Bench decision in *Martin & Harris Ltd. v. VIth Additional Distt. Judge and others* [(1998) 1 SCC 732]. In the said Case, the Court was interpreting the language employed in the proviso to Section 21(1) of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972. The proviso stipulated that where the building was in occupation of a tenant before its purchase by the landlord, such purchase being made after the commencement of the Act, no application shall be entertained on the grounds mentioned in Clause (a) of the said Section unless three years" period had lapsed since the date of purchase. A contention was canvassed that filing of an application before the expiry of the three years" period was barred by the provision contained in the said proviso. Repelling the said submission, the Bench opined thus: -

"It must be kept in view that the proviso nowhere lays down that no application on the grounds mentioned in clause (a) of Section 21(1) could be "instituted" within a period of three years from the date of purchase. On the contrary, the

proviso lays down that such application on the said grounds cannot be "entertained" by the authority before the expiry of that period. Consequently it is not possible to agree with the extreme contention canvassed by the learned Senior Counsel for the appellant that such an application could not have been filed at all within the said period of three years." After so stating, the Bench distinguished the decision rendered in *Anandilal Bhanwarlal v. Kasturi Devi Ganeriwala*[(1985)1SCC 442] which dealt with "institution" and eventually came to hold as follows: -

"Thus the word "entertain" mentioned in the first proviso to Section 21(1) in connection with grounds mentioned in clause (a) would necessarily mean entertaining the ground for consideration for the purpose of adjudication on merits and not at any stage prior thereto as tried to be submitted by learned Senior Counsel, Shri Rao, for the appellant. Neither at the stage at which the application is filed in the office of the authority nor at the stage when summons is issued to the tenant the question of entertaining such application by the prescribed authority would arise for consideration." (emphasis supplied by me)

Conclusion

16. (i) Thus, the proceedings under Section 21(1)(a) of the Act was between the plaintiff-landlord and the defendant-tenant which was neither of public nature nor any public interest was involved. Only private interest of the landlord and tenant was involved which came for adjudication before the Prescribed Authority. Six months time by notice is given to the tenant after service of notice to enable him to get the matter settled amicably or to get an alternative accommodation if he realises that the landlord has made out a case for release of the accommodation. Such a protection is personal to him which he can waive lawfully. Therefore, the requirement of six months notice under Section 21(1)(a) of the Act, though it is mandatory and confers protection to the tenant concerned; it can be waived by him which was waived by the defendant-petitioner in the P.A. Case No.04 of 2009 (Smt. Geeta Rani Vs. Roop Ram). (ii) Entertaining the P.A. Case by the Prescribed Authority was not without jurisdiction. The conduct of the defendant-petitioner shows that he had not promptly raised or pleaded the requirement of six months notice or filing of the premature P.A. Case otherwise the plaintiff-respondent would have got returned the Release Application and would have presented it after about one month so as to exhaust the requirement of six months notice. The defendant-petitioner contested the P.A. Case and appeal on merit in which the fact finding Authorities have found the bonafide need of the plaintiffrespondent to be true and the comparative hardship to be in his favour. Thus, no unmerited advantage to the plaintiff-respondent or disadvantage amounting to prejudice to the defendant-petitioner, has been caused by institution of the P.A. Case No.04 of 2009 before few days of the period of six months from the date of notice.

(iii). Both the courts below have recorded concurrent findings of fact based on consideration of relevant evidences on record that the plaintiffrespondent no.1 is

in bonafide need of the disputed shop and the comparative hardship is in his favour. The Prescribed Authority has considered in detail the question of bonafide need and comparative hardship and based on relevant evidences on record, it recorded the findings of fact that the plaintiff-respondent no.1 is in bonafide need of the disputed shop and the comparative hardship is in his favour. I have also perused the findings so recorded by the Prescribed Authority in the impugned judgment dated 20.11.2014 and I do not find any error of law in the said finding.

17. In view of the above discussion, I do not find any merit in this petition. Consequently, the petition fails and is hereby dismissed.