
(2017) 02 SHI CK 0008
In the High Court Of Himachal Pradesh
Case No : 124 of 2005

Smt. Kanta Sharma and others

APPELLANT

Vs

Shri Sudhir Behl

RESPONDENT

Date of Decision : 27-02-2017

Acts Referred:

[Code of Civil Procedure, 1908](#), [Order 41 Rule 27](#) -
[Himachal Pradesh Urban Rent Control Act, 1987](#), [Section 14\(3\)\(d\)](#)

Citation : (2017) 02 SHI CK 0008

Hon'ble Judges : Dharam Chand Chaudhary

Bench : Single Bench

Advocate : Bhupinder Gupta, Neeraj Gupta, Bimal Gupta, Kusum Chaudhary

Judgement

1. The petitioners (hereinafter referred to as the "landlords") who have succeeded the estate left behind by the original petitioner-landlord Hans Raj (since dead) being his legal heirs have laid challenge to the judgment dated 06.08.2005 passed by learned appellate authority, Shimla in Civil Miscellaneous Appeal No. 42-S/14 of 2003, whereby on reversal of the order passed against the respondent (hereinafter referred to as the "tenant") by learned Rent Controller, Shimla in Rent Case No. 179/2 of 1998 has quashed the same and dismissed the rent petition. The parties hereinafter shall be referred to as "landlords" and "tenant" in short in this judgment. 2. The ejectment of the tenant was sought by Hans Raj, the predecessor-in-interest of landlords under the provisions of Section 14(3) (d) of the Himachal Pradesh Urban Rent Control Act, 1987, which reads as under: "14. (1) * * * (2) * * * (3) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession- (a) * * * (b) * * * (c) * * * (d) in the case of any residential building, if he requires it for use as an office, or consulting room by his son who intends to start practise as a lawyer, an architect, a dentist, an engineer, a veterinary surgeon or a medical practitioner, including a practioner of Ayurvedic,

Unani or Homoeopathic system of Medicine or for the residence of his son who is married, if- (i) his son as aforesaid is not occupying in the urban area concerned any other building for use as office, consulting room or residence, as the case may be; and (ii) his son as aforesaid has not vacated such a building without sufficient cause, after the commencement of this Act, in the urban area concerned." 3. The tenant was inducted in two rooms set consisting of one bed room, one drawing room-cum-dining room, kitchen, bath/W.C and balcony marked as "B" in the plan Ext. PW-5/A situate in first floor of building 114/1 Ward No. 11, Krishnanagar, Shimla (hereinafter referred to as the "demised premises" in short) in January, 1985. The rent as agreed upon was Rs.750/- per month inclusive of all taxes. The rent note is Ext. PW-1/A. 4. It was pleaded in para 18(a) of the eviction petition that the landlords neither occupied nor vacated any premises within the municipal limits of Shimla during five years preceding the institution of eviction petition. The family of the landlords residing in the same building at the time of institution of the eviction petition was consisting of deceased Hans Raj, his wife, mother, two married sons, children as well as 3rd son of marriageable age, who ultimately got married during the pendency of the petition. Besides, the married daughters of the petitioners also keep on visiting the landlords regularly. Their family relations also keep on visiting them off and on. Therefore, the accommodation comprising three rooms, a small store, kitchen and bath/W.C under their use and occupation is not sufficient to meet their own requirement. The accommodation rented out to the tenant was claimed to be suitable for providing accommodation to the unmarried younger son whose marriage according to them could not be finalized for want of suitable accommodation for his use and occupation. The tenant keeping in view such large family of the landlord was requested time and again to hand over vacant possession of the demised premises, but of no avail, hence the petition for his eviction therefrom. 5. It was also claimed that the demised premises in family settlement (mark "B") dated 1.12.1982 had fallen to the share of landlords and it is they who had been receiving the rent from the tenant since then. 6. In reply, the eviction petition was sought to be dismissed on the ground that the same being not in accordance with the provisions of Urban Rent Control Act and rules framed thereunder is not maintainable and as the landlords allegedly suppressed material facts, therefore, they are not entitled to seek the relief of eviction of the tenant. On merits, it was submitted that besides the petitioners, there are other co-owners/landlords of the demised premises. They are in occupation of more than sufficient accommodation. They even got vacated some accommodation within the statutory period preceding the institution of eviction petition. The agreed rent i.e. Rs.750/- per month has not been denied while answering para No. 11 of the petition. It is also admitted that the tenant was inducted as such in the demised premises in January, 1985. The execution of the rent note is also admitted. 7. While answering para 18(a) (i) of the petition, it is denied that the demised premises are bonafidely required by the landlords for their own use and occupation or for the use and occupation of other members of their family/relations or family friends. It is also denied that the landlords not

own or occupy or got vacated any accommodation within the municipal limits of Shimla during five years preceding the institution of the petition. The size of the family of the landlords as given in the petition was not admitted being incorrect. It was also denied that the married daughters of the landlords or their family relations visit them regularly. The landlords and other co-owners allegedly are in occupation of more than sufficient accommodation. The existence of family settlement whereby the demised premises fell in the share of landlords has also been denied. 8. In rejoinder, the landlords have denied the contents of the preliminary objections being wrong. On merits, while denying the contentions to the contrary, in reply they have reiterated the entire case as set out in the eviction petition. It was specifically pleaded that they became exclusive owner of the demised premises in terms of the family settlement dated 1.12.1982. In rejoinder to reply to para 18(a) of the petition, it was further pleaded that in 3rd week of March, 2000, one room set in the ground floor of the building was vacated by one Shakia. Since the landlords were residing in the top floor of the building, whereas, the accommodation so vacated was situated in the ground floor of the building, therefore, being not suitable to them, they were ready and willing to shift the tenant in the said accommodation. 9. On the pleadings of the parties following issues were framed by learned Rent Controller:- 1. Whether the petitioner bona fide requires the demised premises for his personal use and occupation and also for his family members as alleged? OPA. 2. Whether this petition is not maintainable as alleged? OPP. 3. Relief. 10. Deceased Hans Raj had stepped into the witness box as PW-1 and also examined his brother Pritam Singh as PW-2, Shri Rameshwar, Officer incharge Dayanand Public School as PW-3 and Shri Pyare Lal, Senior Clerk Office of DFSC, Shimla as PW-4. Shri Dinesh Sharma, one of the landlords has appeared in the witness box as PW-5 and proved the map Ext. PW-5/A. 11. The tenant on the other hand had stepped into the witness box as RW-1 and also examined Shri Murari Lal as RW-2. 12. Learned Rent Controller on appreciation of the evidence comprising oral as well as documentary has arrived at a conclusion that the landlords in their claim for additional accommodation for their own use and occupation was bona fide. The tenant as such, was not legally justified to dictate terms to them in the matter of accommodation required by them for their own use and occupation. Also that he should have occupied the accommodation vacated by Shri Shakia in the ground floor of the building, keeping in view the size of the family of landlords. The petition was as such, allowed vide order dated 19.06.2003. However, learned Appellate Authority on reversal of the order passed by learned Rent Controller has dismissed the rent petition as pointed out at the very outset. 13. The legality and validity of the impugned judgment has been questioned in this Court on several grounds, however, mainly that accommodation in the building in question vacated by Rameshwar Sharma and Mohan Lal Rana being in the share of Pritam Singh, the brother of deceased Hans Raj should have not been taken into consideration nor the petition dismissed on the basis thereof, as such facts sought to be brought on record by the tenant by way of application under Order 41, Rule 27 of the Code of Civil Procedure were denied by them. The Appellate

Authority though dismissed the application under Order 41, Rule 27 CPC, however, erroneously presumed that the landlords have admitted the vacation of accommodation by the aforesaid Rameshwar Sharma and Mohan Lal Rana in complete departure to their specific response that the accommodation so vacated by the said tenant was in the share of Shri Pritam Singh, the another co-sharer in the building in question. The landlords had nothing to do with such accommodation and there being contentious issues having arisen between the parties until and unless the opportunity to lead evidence granted, such facts should have been ignored from consideration while adjudging the bona fide requirement of the petitioners/landlords. The partition in family settlement between the landlords and Pritam Singh another co-sharer also stood proved from the testimony of said Shri Pritam Singh was erroneously ignored. The partition having taken place in the year 1982 was also proved from the statement of deceased landlord Hans Raj. In view of such evidence available on record, there was no occasion to learned Appellate Authority to have concluded that the partition of the building in question not proved, that too, when the tenant had miserably failed to adduce any evidence to prove otherwise that the property was still joint of the landlords and said Shri Pritam Singh. The findings that other house of the landlords and other co-owners at Kaithu (Shimla) was still joint, therefore, the building in question was also joint property are stated to be erroneous and contrary to the evidence produced by the landlords. Learned Appellate Authority has failed to appreciate that had the accommodation vacated by aforesaid Rameshwar Sharma and Mohan Lal Rana been considered to be in the share of the landlords, the accommodation available with other co-owners in the building should have also been considered. It has not been done and to the contrary, learned Appellate Authority has made out a totally new case in favour of the tenant, which according to the landlords amounts to illegal and arbitrary exercise of jurisdiction. Learned Appellate Authority has also committed illegality in doubting the bona fide of the landlords to accommodate the tenant in the premises vacated by Shri Shakia in the ground floor of the building as according to landlords, the authority below has erroneously ignored the detailed order in this regard passed by learned Rent Controller in the eviction petition on 3.09.2002, whereby the application filed by the tenant seeking a direction to put him in the premises vacated by one Shakia was dismissed after taking into consideration the fact that offer made initially by the landlords to the tenant in this regard was declined by him. Since the application was filed by the tenant after the landlords having spent considerable amount for carrying out repairs in the said accommodation and as the tenant had initially declined the offer made to him to shift there, the application according to the landlords was rightly dismissed by learned Rent Controller. Learned Appellate Authority also committed error of law while clubbing the requirement of the landlords along with the accommodation fallen vacant and made available to Pritam Singh, who as per own admission of the tenant was also residing in that very building. Therefore, on account of misreading, misconstruction and mis-appreciation of the facts as well as evidence available on record, a grave injustice is stated to have caused to

the landlords. The impugned judgment as such, has been sought to be quashed and set aside. 14. Mr. Bhupinder Gupta, learned Senior Advocate assisted by Mr. Neeraj Gupta, Advocate during the course of arguments has urged all the grounds raised in the memorandum of petition and while placing reliance on the evidence as has come on record by way of own testimony of Hans Raj, PW-1, the deceased petitioner-landlord as well as that of his brother Pritam Singh, PW-2 and the map Ext. PW-5/A has contended that learned Appellate Authority was not justified in dismissing the eviction petition on reversal of the order passed by learned Rent Controller. The own admissions as has come on record by way of statement of tenant have also been pressed in service to substantiate the claim of the landlords. Mr. Bhupinder Gupta has further urged that the tenant cannot be permitted to dictate terms to the landlords as to which accommodation should be occupied by them or sufficient for their own use and occupation. It being their sole prerogative, the choice should have been left to the landlords only. 15. On the other hand, Mr. Bimal Gupta, learned Senior Advocate assisted by Ms. Kusum Chaudhary, Advocate while repelling the arguments addressed on behalf of the landlords has pointed out that the plea of partition of the building in question is not at all proved. There being no legal and acceptable evidence that the premises vacated by Rameshwar Sharma and Mohan Lal Rana were in the share of Pritam Singh, learned Appellate Authority has not committed any illegality or irregularity while arriving at a conclusion that the said premises also became available to the landlords for being occupied by them to meet their personal requirement. It is also pointed out that the tenant was willing to shift to the premises in the ground floor of the building vacated by Shri Shakia, however, the landlords not allowed him even to do that also. Therefore, according to Mr. Gupta, when the evidence available on record is suggestive of that the landlords have got sufficient accommodation to cater to their personal need, hence learned Appellate Authority has not committed any illegality or irregularity in dismissing the eviction petition on reversal of the order passed by learned Rent Controller. 16. This Court has given its thoughtful consideration to the given facts and circumstances and also the evidence available on record as well as the arguments addressed on both sides. Before entering the controversy upon merits, it is desirable to reproduce following extracts from the judgment of a Co-ordinate Bench of this Court in Mohan Lal Aggarwal v. Kali Ram 1997 (2) Sim.L.C 508:- "17. There can be no dispute with the case law that in a case of bona fide requirement, it is necessary that till the decree of eviction is passed, the landlord should satisfy that the need is bona fide and continues to subsist. If at the time of granting the final order such material is brought on record which would dis entitle the landlord seeking ejectment of the tenant, the same shall certainly be taken into account, but the Court has to be very cautious while looking into these changed situations or attending circumstances 18. In a given situation and in appropriate cases the Courts have to bear in mind the relief and the same would be moulded on the date the ejectment is to be ordered in case such events have taken place during the continuance of proceedings which destroyed the very foundation or claim as put fourth by the landlord or the facts which were existing

at the time when the petition was initially filed, have dis-appeared. There can be no two opinions that the requirement of the landlord should continue to exist till the date the tenant is finally ordered to be evicted and thrown on the road. The events and developments or such acts and conduct of the landlord which may disentitle him from seeking ejectment, would certainly be taken cognizance of. But unfortunately, even if these events, as brought on record by the tenant, are looked into, do not, in my considered opinion, save the tenant from his eviction.

19. The tenant in the present case is not the Judge of the requirement of the landlord or of his son for which the landlord alone is the Judge. It is for the landlord to see which accommodation is needed for himself and his family, for the married son and the family and in case there are more than one married son, which part of the premises have to be allotted to whom keeping in view the size of the family and the living style.....

21. Daughters after marriage in our society do not sever their connections with the parental home. They keep on visiting their parents very often and some times with their husbands and children. Some accommodation is always needed for their comfortable stay.

23. As I look at the things, a case of subsequent events has to be looked into from the point of view of the landlord also. Even when some portions in the building have fallen vacant it is completely the option of the landlord to choose and decide as to which particular portion, site, floor or accommodation is needed to suite his needs or other members of the family including the needs of the married son and his family. Option is again given to the landlord to make a choice as to against which tenant, in case there are many, he desires to file ejectment proceedings in order to meet his requirement and the tenant cannot, in any situation, be permitted to thrust upon the landlord his own choice nor the Court, in the given situation, would exercise any advisory jurisdiction in telling the landlord to accept the one which the Court may offer or the one which is suggested by the tenant.

24. The Courts, on a proper case made out, shall certainly look into the purpose projected by the landlord whether the same is bona fide and is not designed or motivated or prompted by some hidden deal and the relief could always be moulded, if the Court ultimately comes to the conclusion that the subsequent events established on record would dis-entitle the landlord from an order of ejectment against the tenant. The language of the statute is plain and simple. To only two impediments are that the son is not occupying in the urban area concerned any other building for residence and has not vacated such building without sufficient cause, after the commencement of the Act, in the urban area concerned.

26.The Courts of law have to keep in mind the language and the words used in the statute and they are not required to import their own knowledge or to extend the meaning of the phraseology used therein. According to the provision, a landlord would apply to the Controller for order directing the tenant to put the landlord in possession in case of any residential building, if he requires it for the residence of his son who is married.....

31. The Courts of law have to keep in mind the social status, economic standard and the desire coupled with the need to make oneself more comfortable in his own premises and this test is to be applied from the view point of landlord and his family members. The

Courts is not expected to substitute its own ideas and the decision is to be left to the landlord himself. It may not be out of place to state here that the landlord in the present case has offered an alternative accommodation to the tenant in the basement of the building but the offer stands declined by the tenant on the ground that it is neither suitable nor sufficient. Sufficiency or suitability of the tenant is not the headache of the landlord. When the tenant has refused to accept this offer made by the landlord on the ground that the accommodation being offered is neither suitable nor sufficient, it is strange how can the landlord be ordered to make himself comfortable in that accommodation and that the same would be sufficient to meet his requirement. 32.In a place like Shimla friends and relations, living in other parts of the country, very often come to this place during acute summer days and some portion has to be kept in order to meet their needs and requirement. Simply because at one point of time the landlord for some economic or financial stringencies or for different reasons has let out his building, would not justify the stand taken by the tenant in dismissing the ejectment petition. Once the landlord is able to establish on record that the need is genuine and bona fide, it would not frustrate his right for seeking orders of ejectment of the tenant directing him to hand over the possession to landlord. "Sufficient cause" has to be construed liberally so as to advance the object for which the provision has been made in the statute. 33. About the scope of this Court, It has to be kept in view that while exercising its revisional jurisdiction, this Court will not sit as a Court of appeal to re-appraise the evidence placed on record by the parties, if it is said correctly, it is not permissible. When findings of fact have been recorded by the Rent Controller and have been confirmed by the Appellate Authority and that too on appreciation of the evidence, the High Court would not be justified in looking at the material from a deferent angle or substitute its own wisdom. That would be travelling completely outside the ambit and scope of this power. 34. It may further be made clear that this Court shall certainly interfere and reverse the findings if it is shown that the orders of ejectment are based on no material or are based on fictitious material or suffer from any patent error of law or perversity. In that situation, the findings of fact would certainly lose their binding force." 17. Mr. Bhupinder Gupta, learned Senior Advocate has also placed reliance on the judgment of a Co-ordinate Bench of this Court in Jagat Ram Chauhan v. Smt. Avinash Partap and another Latest HLJ 2014 (HP) 420. This Court has gone through the law so cited at the Bar, however, in view of the principle settled in Mohan Lal Aggarwal's case (supra), it is deemed appropriate not to burden this judgment by reproduction of the observations made in the judgment so cited at Bar. 18. The tenant herein admittedly is occupying the demised premises for the last more than 16 years as admittedly he was inducted as such in January, 1985. No petition for his eviction was filed by the landlords seeking his ejectment during this long span, which by itself would show that there is no mala fide intention on the part of the landlords in seeking ejectment of the tenant from the demised premises. Admittedly, the members of family of landlord i.e. at the time of institution of eviction petition 11 in number had squeezed themselves in a three rooms set mark "B" in the map

Ext. PW-5/A. Similarly, the demised premises mark "A" in Ext. PW-5/A is in possession of the tenant. The accommodation mark "B" with the landlords is in top floor of the building, whereas, the demised premises in first floor thereof. The same as such, is suitable for being occupied by the landlords for their own use and occupation. 19. There is no dispute so as to tenant was inducted in the demised premises by Hans Raj, the predecessor-in-interest of landlords. The execution of rent note Ext. PW-1/A has also not been denied by the tenant. This document amply demonstrates that the tenant was inducted in the demised premises by deceased Hans Raj. Had the partition not been effected between the co-sharers in the year 1982, how Hans Raj could have inducted the tenant in the demised premises in exclusion to his brother and other co-sharer Pritam Singh, PW-2. The original settlement deed though has not seen the light of the day, as it is the photocopy thereof, mark "B" has been produced in evidence by the landlords. However, the own testimony of deceased Hans Raj while in the witness box as PW-1 and that of his brother and other co-sharer Pritam Singh should have not been ignored by learned Appellate Authority, more particularly when they were not cross-examined on behalf of the tenant qua this part of their testimony. As a matter of fact, no suggestion has been given to both of them that the partition of the demised premises did not take place in the year 1982 and that the case to this effect set out in the eviction petition and the evidence produced is false. In their cross-examination, no doubt, they have been cross-examined qua this aspect of the matter also, however, their testimony in examination-in-chief remained unshattered because nothing material lending support to the case of the tenant could be elicited therefrom. Above all, the tenant has miserably failed to prove otherwise that the building in question was joint of all the co-sharers and un-partitioned. Therefore, case of the landlords that the building came to be partitioned in family settlement in the year 1982 and it is thereafter the tenant was inducted by deceased Hans Raj in the demised premises stands satisfactorily proved on record. Deceased Hans Raj as such has rightly filed the petition seeking eviction of the tenant from the demised premises on the ground that the same is bonafidely required by him for his own use and occupation and use and occupation of other members of the family, who at the time of institution of the petition were 11 in number and three rooms accommodation mark "B" in the map Ext. PW-5/A, in the considered opinion of this Court, was not sufficient to cater to the own requirement of accommodation of the landlords. The point in issue, therefore, is covered in favour of the landlords by the judgment of the Apex Court in Messrs. Karta Ram Rameshwar Dass v. Ram Bilas and others, 2005(2) R.C.R.(Rent) 643 : (2006) 1 Supreme Court Cases 125. The relevant extract whereof reads as follows: 7. In view of the foregoing discussion, we hold that in a suit for partition filed by one co-sharer against another if a tenant is made party, he can object to the claim for partition if it is shown that the same was not bona fide and made with an oblique motive to overcome the rigors of rent control laws which protected eviction of tenant except on grounds set out in the relevant statute. After a partition is effected or a decree for partition is passed, it would be open to the co-sharers to

evict a tenant from that portion of tenanted premises which had fallen in their respective shares by filing separate proceedings for eviction under rent control laws on the grounds enumerated thereunder in the present case, the tenant failed to prove that the claim for partition was not bona fide. Therefore, final decree in the suit for partition has been rightly confirmed by the High court but it was not justified in reversing decree of the trial court, which directed that the possession of the tenant could not be disturbed unless and until proceeding is initiated for its eviction under the Act, and in ordering for recovery of possession from the tenant of that portion of the tenanted premises which had fallen to the share of the plaintiff. In our view, the trial court was quite justified in directing that possession of the tenant would not be disturbed and it can be evicted only in accordance with law by taking steps for eviction under the provisions of rent control legislation upon the grounds enumerated thereunder. 20. The findings that since the building namely "Harbhajan Cottage" situate at Kaithu (Shimla) is still joint of the landlords and other co-sharers, therefore, the building 114/1, in which the demised premises situate is also their joint property are absolutely without any basis as it cannot be believed by any stretch of imagination that if Harbhajan Cottage is unpartitioned property of the co-sharers, the building 114/1 is also still joint, more particularly when the landlords by producing cogent and reliable evidence had satisfactorily proved that the partition thereof came to be effected in the year 1982 in a family settlement. Being so, the findings as recorded by learned Appellate Authority below that the building in question is unpartitioned are neither legally nor factually sustainable. 21. Surprisingly enough learned Appellate Authority has heavily relied upon the so called admissions on the part of the landlords qua vacation of accommodation comprising 2-2 rooms each by Rameshwar Sharma and Mohan Lal Ran during the pendency of proceedings in the eviction petition. True it is that tenant had filed an application under Order 41, Rule 27 CPC before the Appellate Authority below for placing on record the subsequent events such as the accommodation rented out to aforesaid Rameshwar Sharma and Mohan Lal Rana had been vacated by them during the pendency of the eviction petition. In reply to the application, the stand of the landlords was that no doubt such accommodation was vacated by the aforesaid tenants, however, the same was in the share of Pritam Singh, PW-2, another co-sharer. Taking such response of the landlords as their admission and ignoring that part of the reply in which it was averred that they had nothing to do with the accommodation so vacated by the aforesaid two tenants being in the share of Pritam Singh, learned Appellate Authority was not justified to conclude that the said accommodation was sufficient to cater to the needs of accommodation required by deceased Hans Raj and other members of his family, that too, without entering upon the merits and contentious issues raised by the landlords in reply to the said application. The application rather was dismissed in view of the specific stand of the landlords that the accommodation vacated by aforesaid Rameshwar Sharma and Mohan Lal Rana was in the share of Pritam Singh, the Appellate Authority could have not arrived at a conclusion that the said accommodation was available for being occupied by the landlords

without affording the parties an opportunity of being heard and to show that the accommodation so vacated was in the share of landlords or Shri Pritam Singh. Therefore, the findings recorded by learned Appellate Authority are far fetched and germane of its own mind, without there being any evidence available on record that it is the landlords alone to whom the accommodation so vacated belongs. Their mere admission that aforesaid Rameshwar Sharma and Mohan Lal Rana have vacated the accommodation consisting of two rooms each with them in that very building during the pendency of the eviction petition could have not been taken into consideration to arrive at a conclusion that the said accommodation was in their share and became available for being occupied by them. Learned Appellate Authority was not at all justified in adjusting the said accommodation to adjudge the own requirement of the landlords without consideration that in case the said accommodation was that of the landlords, what was other accommodation in the share of Pritam Singh. Learned Appellate Authority rather seems to have made out a case at its own in favour of the tenant. Such an approach is not at all appreciated. 22. Now if coming to the factual matrix, the tenant admittedly has been inducted in the demised premises as such by deceased Hans Raj. The tenant while in the witness box as RW-1 has admitted that there were 11 members in the family of deceased Hans Raj including himself and his mother. They were deceased Hans Raj, his wife, mother, two married sons, one unmarried son (who also got married during the pendency of these proceedings) and three school going children. The tenant also admits that married daughter of deceased Hans Raj used to visit him along with her husband and children. As per own admission of the tenant while in the witness box, the landlords were residing in the accommodation mark "B" in the map Ext. PW-5/A. In the considered opinion of this Court, the accommodation mark "B" in Ext. PW-5/A is not at all sufficient to cater to the needs of the landlords. No doubt, one room set in ground floor of the building vacated by Shazia was occupied by the landlords after carrying out extensive repairs. There is no denial to their case that this accommodation was offered to the tenant, however, he refused to shift there, remained uncontroverted. No doubt, subsequently, an application was filed by him before learned Rent Controller for seeking a direction to the landlords to shift him to the said accommodation, however, that application was dismissed by learned Rent Controller vide a detailed and reasoned order passed on 3.9.2002. Learned Rent Controller while dismissing the application has taken note of the facts such as offer made by the landlords to the tenant to shift there, however, he declined the same and that they spent approximately Rs.1,00,000/- to carry out repairs thereof. The possibility of the tenant agreed for occupying the said accommodation on finding that extensive repairs was carried out by the landlords to make the same suitable for their own use and occupation, cannot be ruled-out. Learned Rent Controller as such has rightly dismissed the application filed by the tenant. The observations to the contrary recorded by learned Appellate Authority are neither legally nor factually sustainable. Any how, further addition in the accommodation vacated by Shri Shazia is also not sufficient to cater to the needs of landlords because it was

comprising of only one room, whereas the minimum requirement even as per learned Appellate Authority of the landlords was of seven rooms. Since it is held herein above that the accommodation vacated by Shri Rameshwar Sharma and Mohan Lal Rana was not that of the landlords, therefore, learned Appellate Authority was not justified in clubbing the same to adjudge their requirement. The eviction petition, in these circumstances, in all fairness and in the ends of justice should have been allowed because the landlords have specifically pleaded and proved that the demised premises are bonafidely required by them for their own use and occupation. Learned Appellate Authority as such was not justified in reversing the well reasoned order passed by learned Rent Controller on appreciation of the evidence available on record in its right perspective. 23. The present for the reasons recorded herein above, is a case where the impugned judgment deserves to be quashed and set aside by this Court in exercise of its revisional jurisdiction because the findings recorded by learned Appellate Authority are based on no material. As a matter of fact, the evidence available on record has not been appreciated in its right perspective and to the contrary, learned Appellate Authority has made out a case at its own, favoring the tenant. The present is a case where on account of mis-appreciation of evidence and learned Appellate Authority having travelled beyond the record, the impugned judgment suffers from an illegal and patent error of law, hence perverse. The findings recorded by learned Appellate Authority, therefore, have certainly lost its binding force. Learned counsel representing the tenant has not been able to persuade this Court to take similar view of the matter as has been taken by learned Appellate Authority. The present rather is a case where the eviction petition has been erroneously dismissed on reversal of the order of eviction passed against the tenant by learned Rent Controller, which in view of the findings of this Court herein above was not only well reasoned but also legally sustainable. 24. For all the reasons herein above, this petition succeeds and the same is accordingly allowed. Consequently, the impugned judgment is quashed and set aside and the impugned order passed by learned Rent Controller in Rent Case No. 179/2 of 1998 is upheld. As a consequence thereof, the tenant is ordered to be evicted from the demised premises mark "A" in the map Ext. PW-5/A. Pending application(s), if any, shall also stand disposed of. No orders as to costs.