

(2020) 01 JH CK 0235
In the Jharkhand High Court
Case No : Civil Revision No. 6 Of 2014

Tarique Ahmad

APPELLANT

Vs

Usman Abdul Aziz And Ors

RESPONDENT

Date of Decision : 17-01-2020

Acts Referred:

Citation : (2020) 01 JH CK 0235

Hon'ble Judges : H. C. Mishra, J

Bench : Single Bench

Advocate : Shivam Utkarsh Sahay, Pratik Sen

Final Decision : Dismissed

Judgement

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1. Heard learned counsel for the petitioner and learned amicus curiae for the opposite parties.

2. The petitioner is the defendant judgement debtor, who is aggrieved by the impugned Judgment and Decree dated 18.12.2013, passed by the learned

Civil Judge (Junior Division)-I, East Singhbhum, Jamshedpur, in Eviction Suit No. 51 of 2010, whereby, the eviction suit, filed by the plaintiffs opposite

parties for evicting the defendant from the shop, being the suit premises, measuring more or less 310 sq. ft., has been decreed by the Court below, on

contest, directing the defendant to vacate the suit premises within three months.

3. Sans unnecessary details, the necessary facts of the case are that the plaintiff filed the Eviction Suit No. 51 of 2010, for eviction of the defendant

from the suit premises, stating that the suit premises was situated in the building, which belonged to the father of the plaintiffs. During the lifetime of

the father of the plaintiffs, the defendant was inducted as a tenant in the said

premises and he was making the payment of monthly rent to the plaintiffs' father. After the death of the father of the plaintiffs, the plaintiffs were recognized by the defendant as the landlord of the suit premises and the defendant continued to pay the rent to the plaintiffs, which was admittedly paid up the month of March, 2010. The suit was subsequently, filed by the plaintiffs, claiming that the plaintiff No. 2, who is brother of the plaintiff No. 1, was unemployed and wanted to run a readymade garments shop in the suit premises.

4. The suit was contested by the defendant, but the relationship of landlord and tenant has been admitted in the written statement, as such, there is no issue on this point. The cause of action was disputed by the defendant, saying that the plaintiffs did not need the suit premises for their bona fide requirement. The fact that the plaintiff No. 2 was unemployed was also disputed, and it was stated that there were other three shops also in the same building, which could be used by the plaintiffs. It was also denied that plaintiff No.2 was unemployed. Claiming that the shop was his only source of income, the defendant contested the suit.

5. The Court below framed issues, mainly, whether the plaintiff required the suit premises bona fide in good faith for their personal necessity, and whether partial eviction of the defendant from the suit premises shall serve the purpose of the plaintiff, and both the issues were dealt with by the Court below in detail. Three witnesses were examined on behalf of the plaintiffs, out of whom, P.Ws. 1 and 2 were the plaintiffs themselves, and P.W.-3 was the Manager of the plaintiffs. The defendants also examined seven witnesses in this case. The plaintiffs' witnesses naturally stated that the plaintiffs required the suit premises for the personal bona fide need of the plaintiffs, as plaintiff No. 2 was unemployed. These witnesses were also cross-examined in detail. In his cross-examination, P.W.-3 has stated that the entire building, which is three storied building owned by both the plaintiffs jointly, was used as a rest house, and there were four shops in the ground floor. The defendant witnesses have only stated that the plaintiffs did not require the suit premises for the bona fide personal need of the plaintiff No. 2. It has come in the evidence of D.W.-1, the defendant himself, that the shop in question is having roads on two sides, and there is no other shop of the plaintiffs having roads on both the sides.

6. The Court below, on the basis of the evidence on record, has come to the conclusion that admittedly after the death of the father of the plaintiffs,

the plaintiffs have become the owners of the suit premises and the tenancy is admitted in the case. The Court below has stated in the impugned

Judgment that it is well settled law that personal requirement or necessity of landlord does not mean that the landlord must be in dire need or premises

before the decree of eviction can be passed on the ground of personal necessity, and even if the landlord has some means for earning, he can start a

business and law does not prevent him from doing so. Only one thing required to be seen is that requirement is reasonable and bona fide. The Court

below, on the basis of the evidences, also found that the plaintiff No. 2 required the premises for the personal necessity and starting his own business,

which was bona fide and reasonable. The Court below has also held on the basis of the evidence on record that the shop premises is the premises

facing towards the Main Road and also has roads from two sides and, accordingly, it was most suitable place for running the readymade garments

business. The Court below has also found that as the suit premises is measuring only about 310 st. ft. containing only one room, the partial eviction

from the suit premises would not serve the purpose, for which the suit premises was required. Accordingly, both these issues were decided in favour

of the plaintiffs and against the defendant and the suit was decreed, directing the defendant to vacate the suit premises.

7. Learned counsel for the petitioner has submitted that the impugned Judgment, cannot be sustained in the eyes of law, inasmuch as, the suit premises

was not the bona fide requirement by the plaintiffs, as there were other three shops in the suit premises and the plaintiffs have sufficient means for

livelihood. Learned counsel has placed much stress on the fact that the suit premises is the only source of livelihood of the defendant and, accordingly,

in the facts of this case, the Court below has committed patent illegality in decreeing the suit.

8. Learned amicus curiae appearing for the plaintiffs opposite parties, on the other hand has opposed the prayer, submitting that there is no illegality in

the impugned Judgment, worth any interference in exercise of revisional jurisdiction.

9. Having heard learned counsels for both the sides and upon going through the record, I find that the Court below has elaborately dealt with the

evidence on record and has decided the issues in accordance with law. It is well settled proposition of law that the choice of the landlord cannot be

restricted to the other places available in the suit premises, rather the landlord has the right to choose the suitable place for running the business in his

premises. Even the Court below has found that the suit premises is having the roads from two sides and facing towards the main road, which is the

best suitable place for running the readymade garments shop, and simply because the plaintiff No. 2 had other means of livelihood having the share in

the property of his deceased father, it could not be said that he was precluded thereby from running his own business. The Court below has also held

that the partial eviction from the suit premises shall not serve the purpose.

10. I do not find any illegality in the impugned Judgment and Decree dated 18.12.2013, passed by the learned Civil Judge (Junior Division)-I, East

Singhbhum, Jamshedpur, in Eviction Suit No. 51 of 2010, worth any interference in the revisional jurisdiction.

11. There is no merit in this civil revision and the same is, accordingly, dismissed.