

Civil Revision No. 118 of 2004

Suresh Chaurasia, son of late Bhuneshwar Chourasia, Resident of village-
Isri Bazar , P.S. Nimiaghat, Dist. Giridih Petitioner

Versus

1. Chandra Shekhar Burnwal, son of late Laleshwar Prasad, resident of Isri
Bazar, P.O. Isri Bazar, P.S. Nimighat, District-Giridih

.... Opp. Party/plaintiff

2. Rajesh Chaurasia, S/o Late Bhuneshwar Chaurasia, resident village-Isri
Bazar, P.S. Nimiaghat, Dist. Giridih Performa Opp. Parties

For the Petitioner : Mr. Bhaiya Vishwajit Kumar, Advocate
Mr. Shailendra Kumar Singh, Advocate

For the Opp. Parties : Mr. P.C. Roy, Advocate
Mr. Shiv Shankar Jee, Advocate

PRESENT

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
ORDER

C.A.V. On 24.06.2025

Pronounced On 10/07/2025

1. Heard learned counsel for the petitioner and learned counsel for the opposite parties.
2. The instant civil revision application under section 14(8) of Bihar Buildings (Lease Rent and Eviction) Control Act, 1982 is directed against the judgement dated 04.06.2004 and decree signed on 18.06.2004 passed by Munsif, Girdih, in Eviction Suit No.24 of 2003 instituted under section 14 of Bihar Building Rent(Lease Land Eviction) Control Act, whereby and whereunder learned Munsif decreed the suit of the plaintiff/opposite party instituted on the ground of personal necessity and held the petitioner liable to be evicted from the suit premises and directed him to handover the vacant possession of the suit premises within two months from the date of the judgment/decreed along with the cost of the suit of Rs.2,737/-.
3. Factual matrix giving rise to this revision is that the suit land pertaining to Khata No.7/1, Plot No.378 and other *rayati* lands owned and possessed by Rakesh Prasad and Naresh Prasad, sons of late Rajendra Prasad had jointly constructed double story pukka building and sold the same through registered sale deed dated 13.03.2002 to the plaintiff. It is further alleged

that before purchase of the suit property including the premises, the defendants, Suresh Chourasia and Rajesh Chourisia were inducted as tenant by the vendor of the plaintiff in the year 1995 on monthly rent of Rs.1,000/-, which was later on increased up to Rs.2,000/- per month. It is further alleged that after purchase of the suit premises, the plaintiff and his vendor namely Rakesh Prasad and Naresh Prasad asked the defendant to attorn the plaintiff as their land lord. Accordingly, the defendants attorned the plaintiff as land lord and paid him rent till January, 2003. Thereafter, they stopped payment of rent from February, 2003 onwards till August, 2003. Further case of the plaintiffs/opposite parties is that a partition has taken place between the plaintiff and his brothers but he has not been allotted any share in the ancestral house rather some other land has come into his share. The plaintiff along with his wife and sons is temporarily residing in a small room given to him by his brother Devendra Prasad Barnwal, who is pressurizing the plaintiff to vacate the said room for his own accommodation. Therefore, the plaintiff requires the suit premises for his own bonafide use and accommodation. The request of the plaintiff to vacate the suit premises was not acceded by the defendants in spite of their assurance to vacate the same by September, 2003. Thereafter, the defendant flatly denied/refused to vacate the suit premises. Hence, the suit was filed under section 11(C) of Bihar Building Rent(Lease Land Eviction) Control Act, 1982.

4. The defendant No.1/petitioner appeared and filed his written statement and the defendant No.2, Rajesh Chourasia did not appear before the court and the said eviction suit was decided ex-parte against him. The plea of defendant/petitioner in his written statement is that the plaintiff has no bonafide requirement of the suit premises as the ground floor of the building is vacant and in possession of the plaintiff. The defendant has also denied of any knowledge of sale of the suit premises to the plaintiff on 13.03.2002. The defendant was never inducted as tenant by the plaintiff and his vendor rather he was inducted as tenant by the brother of the vendor of plaintiff

namely Dr. Surendra Prasad in the year 1990. He has also denied any payment of rent to the plaintiff or his vendor at any point of time. However, it is admitted that on advice of Dr. Surendra Prasad, (landlord of the defendant), he started paying rent to the plaintiff since March, 2003 till August, 2003 and the plaintiff granted receipts for the months of February and March, 2003. Thereafter, he refused to grant any receipt, hence, the rent was being remitted through money orders, which was refused by the plaintiff. Since, there is alternative accommodation available to the plaintiff. Therefore there is no need of partial or whole eviction of the defendant from suit premises. The defendant never defaulted in payment of rent rather he has spent Rs.3,470/- on repairs and renovation of the suit premises. Therefore, the suit of the plaintiff is fit to be dismissed with cost.

5. Learned trial court, on the basis of the pleadings of the parties, has settled following issues for adjudication:

- (i) Is the suit maintainable?
- (ii) Has the plaintiff cause of action for the suit?
- (iii) Is the suit bad for non-joinder of necessary parties?
- (iv) Is there any relationship of landlord and tenant between the parties?
- (v) Does the plaintiff require the premises in suit for his personal bonafide use and occupation?
- (vi) Can the personal requirement of the plaintiff be fulfilled by partial eviction of the defendant from the suit premises?
- (vii) To what any other relief/reliefs, is the plaintiff is entitled for?

6. In the course of trial, altogether 5 witnesses were examined by the plaintiff namely:

P.W.1 Vijay Kumar

P.W.2 Chandra Shekhar Barnwal

P.W.3 Devendar Barnwal

P.W.4 Anand Prasad

P.W.5 Mahendra Prasad

Apart from the aforesaid oral witnesses following documentary evidence has been adduced

Ext.1-Batwaranama (Partition Memorandum) between the plaintiff and his two brothers dated 09.01.2003.

Ext.2-C.C. of registered sale deed dated 13.03.2002 executed by Rakesh Prasad and Naresh Prasad in favour of Shekhar Barnwal.

7. The Defendant No.1/petitioner has also examined 3 witnesses namely:

D.W. 1-Basudas Mahto

D.W.2 Aman Kumar Vishwakarma

D.W. 3 Suresh Chaourasia.

Apart from oral evidence following documentary evidences has been adduced:

Ext. A to A to 25-Rent receipt dated 13.03.2003 for Rs.450 for the month of March and April.

Ext.B-The signature and writing of Chandra Barnwal.

Ext. C to C/2- The A/D of money order receipts dated 25.05.2003, 05.09.2003 and 23.10.2003 respectively in the writing and signature of the defendants.

Ext. D-The money order receipt dated 10.10.2003.

8. Learned trial court after considering the oral as well as documentary evidence available on record decided the issue No.4 in favour of the plaintiff in view of the specific evidence that the defendant has attorned the plaintiff as a landlord and paid him rent. Therefore there is relationship of landlord and tenant between the parties. Vital issue Nos.5 and 6 were jointly taken together for adjudication and relied upon Ext.1, memorandum of partition between the plaintiff and his two brothers wherein no share in residential house was given to him (plaintiff). P.W.3, who is own brother of the plaintiff

has proved that the plaintiff is occupying a room in his house. He has also purchased suit premises, which has been tenanted by erstwhile vendor to the defendant and he has also proved that the plaintiff requires the suit premises for his own bonafide use and accommodation. It was also held that partial eviction would not fulfill the requirement of the plaintiff. In this regard, the defendants had not brought any clinching and reliable evidence. Accordingly, issue Nos.5 and 6 were also decided in favour of the plaintiff. Since, the main issues were decided in favour of the plaintiff, other issues were also found favorable to the plaintiff, the suit was decreed, which has been assailed in this revision.

9. Learned counsel for the petitioner has assailed the impugned judgment and decree in this revision mainly on the following grounds:

- (a) Learned trial court has failed to appreciate that the ground floor of the suit premises is vacant and in possession of the plaintiff, therefore his claim for bonafide requirement for his own use and occupation is barred plea, which was never substantiated by the evidence. The plaintiff has simply stated that he is residing in the house of his brother without putting any specific denial of the aforesaid plea of the defence.

- (b) At para 11, P.W.4 Anand Prasad, in his evidence, has specifically admitted that in the ground floor of the suit premises, there is another three room with separate bathroom and kitchen, which is lying vacant. It is further argued that the defendant/petitioner neither attorned the plaintiff as landlord nor he was served any notice attornment by the plaintiff.

- (c) It is further argued that the defendant/petitioner never attorned the plaintiff as landlord nor he was served any notice of attornment by the plaintiff.

- (d) On the point of “**partial eviction**”, learned trial court failed to consider that the vacant portion of the suit premises on

ground floor were sufficient to fulfill the requirement of the plaintiff, hence, the eviction of the defendant was not required. Therefore, comparative hardship of the defendant was not considered and decided.

10.Learned counsel for the petitioner has placed reliance upon the following reported judgments:

(i) *Mrs.Veena Rani & Ors.Vs. Mrs.Ishrati Annullah & Ors., reported in 1984 SCC On Line Patna 176 and AIR 1985 Patna 207;*

(ii) *M/s Bihar Alloy Steels Limited Vs. Hari Shankar Worah (Properties) Ltd. &Anr. reported in 1987 PLJR 868*

11.On the other hand, learned counsel for the opposite parties has vehemently refuted the aforesaid points of argument raised on behalf of the petitioner and submitted that the learned trial court has very wisely and aptly considered the overall aspects of the case within the ambit of provision under section 14 of Bihar Building Rent(Lease Land Eviction) Control Act. The petitioner has absolutely failed to point out any jurisdictional error or illegality and impropriety of the impugned judgment and decree. The factual aspects of the case decided by learned trial court cannot be re-appreciated in revision. The defendant/petitioner has admitted in specific terms, the attornment of the rent to the plaintiff and also as his landlord at the instance of one Dr. Surendra Prasad. It is further submitted that the landlord cannot be dictated with regard to his choice of his said accommodation and he has clearly stated that the ground floor of the tenanted premises is for the purpose of parking and is not at all fit for accommodation. Therefore, there is no legal substance in the argument of learned counsel for the petitioner and no merits in this revision, which is fit to be dismissed.

12.Learned counsel for the opposite parties has placed reliance upon reported judgment:

(i) M/s BooruguMahadev& Sons and Anr.Vs. Sirigiri Narasingh Rao & Ors. reported in **2016 (1) JBCJ, 429 SC**

13.I have considered the rival contentions as pointed out above of the parties.

At the very outset, it is desirable to observe that the power of this Court under the proviso to section 14(8) of the Act is limited to the extent of seeing as to whether the order of eviction is according to law or not. For this limited purpose, the court cannot re-appraise the evidences as an appellate court and will not interfere with the order on the ground that on appreciation of evidence, a different view can be taken. The power of this Court is also not limited as of revisional court under section 115 of Code of Civil Procedure. Thus, this Court will interfere, in case, if it is found that the order is based on no evidence or the court below has ignored the material evidence, which has affected the findings or the findings are perverse, unreasonable or having been arrived at without considering the statutory requirements for grant of relief.

14.**Personal Necessity:-** It is well settled law that a tenant take a premises from the landlord to conduct his business or for the purpose of residence, it is always choice of landlord to choose premises for his business or residence. However, subject to condition that there is bonafide need and requirement for personal necessity. The law is well settled by catena of judgments that “the reasonable requirement of the landlord postulate that there must be an element of need as opposed to mere desire and wish. The distinction between desire and need should doubtless be kept in mind, but not so as to meet even the genuine need as nothing but a desire.” The Hon’ble Apex Court has quoted the aforesaid view in the case of **Pratap Rai Tanwani and Anr. Vs. Uttam Chand & Anr. (2004) 8 SCC 490.**

It is also settled proposition of law that necessity need not be proved as a dire necessity.

15.The Hon’ble Apex Court in the case of **Md. Ayub & Anr.Vs. Mukesh Chand (2012) 2 SCC 155** has discussed the concept of bonafide requirement

of plaintiff with comparative hardship between the landlord and tenant. It has been held that landlord's requirement need not be a dire necessity.

The above principle of law was also propounded by the Hon'ble Patna High Court in the case of *Mrs. Veena Rani & Ors. Vs. Mrs. Ishrati Annullah & Ors.*, relied upon by learned counsel for the petitioner at para 11 of the said judgment. The Hon'ble Supreme Court observed that when the tenant did not make genuine effort to find out any alternative accommodation, even during the pendency, the tenant cannot claim hardship in future.

16. In the instant case, although the petitioner/defendant has taken plea in his written statement that he was inducted by the uncle of the plaintiff over the suit premises and never attorned as tenant of the plaintiff and never paid rent to him but the evidence adduced by the respective parties clearly establish the relationship of landlord and tenant between the plaintiff and defendant as well as attornment of rent by the defendant to the plaintiff as landlord. The plaintiff/opposite party has filed the suit only on limited ground available under section 11(C) for his bonafide and reasonable personal use and occupation in the year 2003 but could not taste the fruits of decree even after lapse of two decades and constrained to live in the house of his brother. The petitioner has not pointed out any illegality or impropriety in the impugned order as regards relationship of landlord and tenant between the parties and bonafide reasonable requirement of the suit premises for personal use and occupation of the plaintiff.

17. The Hon'ble Apex Court in the case of *Badri Narayan Bhutada Vs. Govind Ram Ram Gopal Mundada (2003) 2 SCC 320* held as under:-

“It is expected of the parties to raise necessary pleadings so as to enable the parties to adduce evidence and bring on record such relevant material as to enable the court forming an opinion on the issue as to comparative hardship and consistently with such finding whether partial eviction could meet the ends to justice. Even if no issue has been framed, the court may discharge its duty by taking into consideration such material as

available on record.” The same principle has been propounded by the Hon’ble Patna High Court/Ranchi Bench in the case *M/s Bihar Alloy Steels Limited Vs. Hari Shankar Worah (Properties) Ltd. &Ors.*, relied upon by the learned counsel for the petitioner at para 14 of the said judgment.

18. In the instant case, the mere plea of petitioner/defendant was that the ground floor of the suit premises was vacant comprising of 3 rooms, one latrine, bathroom and kitchen lying vacant is sufficient for use and occupation of the plaintiff has not been accepted by the learned trial court in view of reasonable and bonafide requirement of the plaintiff and on the principle that the tenant cannot dictate the landlord regarding use and occupation of his own premises in the manner desired by the tenant. As such, the petitioner/defendant himself in essence has not pleaded or proved any partial eviction to be sufficient rather simply says that there is vacant portion in the suit premises.

19. In view of the aforesaid discussions and reasons, I find that learned counsel for the petitioner has miserably failed to point out any infirmity in the impugned judgment and decree suffering from non-consideration of material evidence or any error in arriving at right findings by the concerned trial court. Learned trial court appears to have considered all that above points as pointed out by the present petitioner in right perspective on the basis of materials evidence available on record. Therefore, the impugned judgment and decree does not require any interference by way of this revision. In my considered view, this revision is devoid of merits, accordingly, **dismissed**.

20. Interim order, if any passed in this case, stands vacated.

21. Let a copy of this judgment along with Trial Court Records be sent back to the trial court for information and needful.

(Pradeep Kumar Srivastava, J.)

High Court of Jharkhand, Ranchi

Dated: 10/ 07/2025

Pappu/- A.F.R.