

IN THE HIGH COURT OF JHARKHAND AT RANCHI

S.A. No. 70 of 2023

1.Punnalal Sharma @ Punalal Sharma (dead)
(deleted vide order dated 21.07.2025)
1.(a) Rekha Devi aged about 58 years, w/o Late Punnalal Sharma @
Punalal Sharma
1(b) Amit Sharma aged about 35 years, S/o late Punnalal Sharma @
Punalal Sharma
Both resident of Ward No. 4, Shaundik Dhaarmashala Gali, Town, PO
& P.S. Chakradharpur, Dist. West Singhbhum (Jharkhand)
... .. Defendant/Appellant/Appellants
Versus
Dip Narayan Singh, son of late Ram Pavesh Singh, resident of
Chandmari Road, Near Goshala Bhawan, Ward No. 4, Town, PO and
PS-Chakradharpur, District-West Singhbhum (Jharkhand)
... .. Plaintiff/Respondent/Respondent

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellants : Mr. A.K. Das, Advocate
: Mr. Kanishka Deo, Advocate

14/18.09.2025 Heard the learned counsel appearing on behalf of the appellants.

2. This 2nd appeal has been filed against the judgment and decree dated 30.01.2023 (decree signed on 10.02.2023) passed by the learned District Judge-IV, West Singhbhum at Chaibasa, in Civil Appeal No. 01 of 2020 whereby the learned court dismissed the appeal and upheld the judgment and decree dated 30.11.2019 (decree signed o 10.12.2019) passed by the learned Civil Judge (Junior Division), Chaibasa in Eviction Suit No. 01 of 2010.

3. The suit seeking eviction was filed under the provisions of the Bihar Building (Lease, Rent and Eviction) Control Act, 1982 on account of alleged default in payment of rent and personal necessity.

4. The learned counsel for the appellants has submitted that the period of default in payment of rent in the present case as alleged in the plaint was from May 2008 to December 2009 and the Suit was filed on 29.01.2010. He submits that an advance on account of rent has been paid vide Exhibit-A to the extent of Rs. 10,000/- on 24.12.2008 and therefore on the date of filing of the suit, the defendant was not in default of payment of rent. He has relied upon the judgment

of the Hon'ble Supreme Court reported in (1998) 3 SCC 58 (*K.A. Ramesh and others versus Susheela Bai (Smt.) and Others*). The learned counsel submits that once the arrear of rent is accepted at a later point of time and prior to filing of the suit, the suit on account of default in payment of rent cannot be decreed.

5. The learned counsel has further submitted that the suit property belonged to as many as seven co-sharers and therefore the plaintiff himself could not have asked for eviction of the entire suit property on account of his personal necessity. The plaintiff has admitted that the plaintiff is the co-owner of the property. The learned counsel submits that this aspect of the matter has been ignored by the learned court while decreeing the suit on account of personal necessity as well.

6. After hearing the learned counsel for the appellants, this court finds that the suit was filed for eviction on account of default of payment of rent and also on account of personal necessity by Dip Narayan Singh. The relationship of landlord and tenant between the parties is not in dispute and no such dispute has been raised during the course of hearing. It appears that the plaintiff has also claimed himself to be the co-owner of the property and claimed that the suit property originally belonged to one Satish Chandra Sah who sold the same on 29.08.1969 to the mother of the plaintiff and after her death, the suit property devolved upon the plaintiff and other co-sharers and the defendant was inducted as month-to-month tenant under the plaintiff in respect of the suit property @ Rs. 500 per month and the rent was being paid to the plaintiff. The learned Trial Court framed the issues which are as under: -

- (i) *Whether present suit is maintainable in its present form?*
- (ii) *Whether plaintiff has got valid cause of action?*
- (iii) *Whether there is relationship of landlord and tenant between the plaintiff and defendant?*
- (iv) *Whether defendant has defaulted in payment of rent from the month of May 2008 to December 2009 and whether defendant is in the arrears of rent?*
- (v) *Whether plaintiff has got bonafide personal necessity for the suit premises and whether partial*

eviction of defendant will meet the need of the plaintiff?

(vi) *Whether plaintiff is entitled to get the relief claimed?*

7. The learned Trial Court decided the issue no. (iv), the period of default being from the month of May 2008 to December 2009 and also whether the defendant was in arrears of rent. The learned court, inter alia, referred to the evidence of the defendant that on 24.12.2008 the plaintiff took Rs. 10,000/- from the defendant which were said to have been used in adjustment of arrears of rent and the defendant also identified the rent receipt. During the course of argument, the learned counsel for the appellants has submitted that the exhibit B to B/4 were rent receipt issued for the period from December, 2008 onwards. The learned Trial Court has considered the exhibit-A (money receipt of Rs. 10,000/-) with respect to exhibit- B to B/4 and the learned court recorded that there were overwriting in the document and accordingly rejected the same. The finding recorded by the learned trial court at paragraph 8 is as under: -

“8. Whether defendant has defaulted in payment of rent from the month of may 2008 to December 2009 and weather defendant is in areas of rent?

In order to decide this issue this court firstly will delineate upon pleadings of both the parties. In the plaint it has been stated that defendant has not paid rent in respect of the suit property to the plaintiff from the month of May 2008 to December 2009 while as against this proposition of the plaintiff the stand of the defendant is that no arrears of rent is due as the plaintiff has taken the rent well in advance. The plaintiff has filed 20 counterfoils rent receipts and these have been marked as exhibits 3 to 3/S in series. And counterfoils are of the Years 2006, 2007 and 2008. And rent receipt of the month of May 2008 has been filed. But counterfoils of the rent receipt from the month of May 2008 onwards has not been filed as it has been stated that defendant defaulted to pay the rent from the moth of May 2008 to December 2009. In the series of Ext. 3 the counter foils on record exists only up to the month of May, 2008 and not beyond that. In this regard the PW1 Deep Narayan Singh in his examination-in-chief has stated that defendant tenant stopped paying the rent onwards and despite being requested for that he did not pay the rent. And further section

20 of B.B.R.C. Act is very well relevant to mention here which is as follow: -

Section 20 of the Bihar Building (L.R. & E.) Control Act, 1982.

(1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord receipt in the prescribed form for the amount of rent paid by him duly signed by the landlord or his appointed agent.

(2) If a landlord, without reasonable cause fails to deliver the tenant receipts as required by sub section (1) such landlord shall be liable to fine not exceeding double the amount of rent so paid to be imposed after enquiry by the controller upon a complaint of the party aggrieved within three months from the date of such failure.

It can reasonably be deduced that as per Section 20 defendant had to complain regarding non-issuing of rent receipts which was not done by the defendant in such situation presumption goes against the defendant that he did not pay the rent that is why the rent receipts were not issued. On the other hand testimony of DW1 defendant/tenant in para 9 it has been stated that on dated 24.12.2008 plaintiff took Rs. 10000/- from the defendant which were used in the adjustment of arrears of rent. Defendant also identified the rent receipts which have been marked as Ext. A by this Court. This Court has also gone through the Ext. B to B/4 in which the defendant has stated that the plaintiff has overwritten on the month and date column of the rent receipts. This Court has also gone through the rent receipts marked as Ext B. from the defendant side but as regards the year is concerned these rent receipts are of the year 2006 not of the year 2008 as stated by the defendant. So, this proposition of the defendant that the plaintiff made alteration by overwriting on the rent receipts is not reliable. And it has also appears Exhibit 3/m. Rent receipt for the month of November 2008 but on the overleaf of such rent received it is mentioned that rent of December 2007 was paid in January 2008.”

8. So far as point of personal necessity is concerned, the learned trial court discussed the finding as under:-

Issue no. V

Whether plaintiff has got bonafide personal necessity for the suit premises and whether partial eviction of defendant will meet the need of plaintiff?

In order to decide this Issue there is not any documentary evidence on record and that could not be shown as it very much dependent upon the oral evidence. PWI Deep Narayan Singh, in para 11 has stated he needs the suit property for his personal necessity as presently where he is living is a one room house and in his family there is besides, his wife and that three sons and the elder son has attained marriageable age for which he requires the suit property for the accommodation of his family that is why he has brought this suit for personal necessity. While DWI who is defendant himself in para 11 has stated that it is in the knowledge of the plaintiff that suit property is totally damaged and it is not up to the level of any kind of accommodation and that is why the claim of the plaintiff that he requires the suit property is totally lie. This Court has dwelt upon this para 11 and finds that this is not excuse on the part of defendant being the tenant of the suit property that suit property is not up to the accommodation as the same is entirely damaged. Besides this excuse the defendant has not produced any evidence which shows that the plaintiff has no need for the suit property. And also as the plaintiff has many family members so the partial eviction of defendant will meet the need of plaintiff. Hence this issue no. V is decided in favour of the plaintiff. Plaintiff has got bonafide personal necessity for the suit premises and partial eviction of defendant will not meet the need of plaintiff.”

9. The learned **1st appellate court** upheld the finding of the learned trial court on the point of personal necessity. The findings are as follows:-

“The plaintiff requires the suit property to meet his bonafide personal necessity for his own use. Since the house in which the plaintiff/respondent is at present residing is of one room. His family consists plaintiff himself, his wife and three sons. Plaintiff now intending to get his eldest son married and he requires the suit property for his sons for residential purpose. D.W.1 defendant himself stated that it is in the knowledge of the plaintiff that suit property is totally damage and it is not up to the level of any kind of accommodation and that is why the claim of the plaintiff that

he requires the suit property is totally lie. The defendant has not produced any evidences which shows that the plaintiff has no need for the suit property. Hence this point of determination No.3 is decided in favour of plaintiff/respondent.”

10. So far as point of personal necessity is concerned, this court finds that both the courts have given concurrent findings with regard to the personal necessity of the plaintiff and the argument of the appellants that the plaintiff was not the owner of the entire property and therefore, the appellant could not have evicted from the suit premises on account of personal necessity is devoid of merits and is not tenable in the eyes of law.

11. The learned *1st Appellate Court* also held that the defendant was a defaulter in payment of rent and the plea of the defendant based on exhibit- A (payment of Rs. 10,000/-) which as per the defendant was used by adjusting rent and issuance of the correspondent rent receipts exhibit B to B/4 were rejected by observing that these rent receipts were of the year 2006 and not of the year 2008 as claimed by the defendant. The learned 1st appellate court additionally observed that by going through exhibit- 3 series (whose details have been mentioned in paragraph 6 of the trial court’s judgement) and section 20 of the aforesaid Act, it can be said that the defendant is a defaulter from the month of May to December 2009 even if he paid the money in advance on 24.12.2008 as the defendant defaulted from the month of May, 2008. The findings are as follows:-

“The defendant has not paid rent in respect of the suit property to the plaintiff/ respondent from the Month of May 2008 to December 2009, in spite of repeated requests for payment made by the plaintiff/ respondent. The defendant/appellant has made himself defaulter in the eye of law. The plaintiff/respondent has filed 20 counterfoil rent receipts and there have been marked as Ext.3 to 3/S in series. But counterfoil of the rent receipt from the month of May 2008 onwards has not been filed as it has been stated that defendant appellant defaulted to pay the rent from the Month of May 2008 to December 2009. In this regard the P.W.1 Deep Narayan Singh deposed that defendant/appellant tenant

stopped paying the rent onwards and despite being requested for that he did not pay the rent. On the other hand testimony of D.W.1 in para-9 it has been stated that on dated 24.12.2008 plaintiff took Rs.10,000/- from the defendant which were used in the adjustment of arrears of rent. D.W.1 also identified the rent receipts which have been marked as Ext.-A. Ext-B to B/4. But as regards the year is concerned these rent receipts are of the year 2006, not the year 2008 as stated by the defendant.

But going by the series of Ext.3 and section 20 of B.B.R.C. Act it can be said that defendant is defaulter from the month of May to December 2009 even if he paid the money in advance which was paid on 24.12.2008 because the defendant defaulted from the Month of May 2008. ”

12. So far as the judgement relied upon by the learned counsel for the appellant is concerned, this court is of the considered view that the same does not apply to the facts and circumstances of this case on account of the fact that the defendant in this case has failed to prove the payment of rent as claimed by the defendant and the documents relied upon by the defendant suffered from overwriting as recorded by the learned trial court which were rejected by both the learned courts and the learned 1st appellate court has also recorded that even if the payment of Rs. 10,000/- vide exhibit -A was considered, the defendant was still found to be in default in payment of rent calling for eviction.

13. This court is of the considered view that the default in payment of rent and the ground of personal necessity are two distinct grounds altogether and even one of them survives, the tenant is liable to be evicted.

14. This court is of the considered view that the point regarding default as well as personal necessity in the present case are essentially questions of facts. The learned courts have come to concurrent findings on both the issues and this court finds no perversity in the matter of appreciation of materials on record. This court is of the considered view that no question of law, much less, any substantial question of law arises in this case and accordingly this 2nd appeal is dismissed.

15. At this stage, the learned counsel for the appellant has submitted that it may be observed that the findings of the court concerned would be only in connection with the proceeding under the Bihar Building (Lease, Rent and Eviction) Control Act.

16. There can be no doubt that when a proceeding is initiated under Bihar Building (Lease, Rent and Eviction) Control Act, as applicable in the State of Jharkhand at the relevant point of time, the finding recorded therein are confined to the provisions of the Act.

17. Pending I.A., if any, is closed.

18. Let this order be communicated to the court concerned through FAX.

(Anubha Rawat Choudhary, J.)

Dated:18/09/2025
Binit