

Raj Kumar Khaitan And Others vs Bibi Zubaida Khatun And Another on 7 October, 1994

Equivalent citations: AIR1995SC576, (1997)11SCC411, AIR 1995 SUPREME COURT 576, 1997 (11) SCC 411, 1994 AIR SCW 4853, 1994 AIR SCW 4852, (1994) 3 CRIMES 998, (1994) 1 EASTCRIC 158, (1994) 1 BLJ 289, 1994 BLJR 1 23, (1995) 1 SCT 670, 1995 (1) SCC(SUPP) 15, (1995) 70 FACLR 1049, (1993) 4 CURCRIR 3007, 1996 SCFBRC 107, (1995) 1 SCJ 46, (1995) 2 JT 490 (SC), (1995) 1 PAT LJR 107

Bench: Kuldip Singh, B.L. Hansaria

JUDGMENT

1. Special leave granted. The appellants-landlords instituted a suit seeking ejectment of the respondents-tenants from the premises in dispute before the Munsif, Darbhanga. The Munsif decreed the suit on the ground of bona fide requirement of the landlords and ordered the ejectment. The High Court in exercise of its revisional jurisdiction reversed the findings of the Munsif on the short ground that there were no specific pleadings on the record regarding the bona fide requirement of the landlords.

2. We have heard learned Counsel for the parties. Paras 11 and 12 of the plaint wherein bona fide requirement has been pleaded are as under:-

11. That the plaintiffs have got no other means of livelihood and wants to start a business of their own in the Schedule II premises which is a fit and suitable site for business and has no building other than this for the said purpose and also that the plaintiffs have no means of hire another building of the similar site and as such require the disputed house for bona fide purpose.

12. That the plaintiffs require the Schedule II property for their personal necessity and the defendants are deliberately avoiding to vacate the same in spite of the fact that other building for carrying on' the business may be available to the defendants.

3. It is clear from the averments made in the above quoted paragraphs that the plain tiffs asserted that there was no other means of livelihood with them and as such they wanted to set up their own business in the premises in dispute. The High Court, however, came to the conclusion that apart from above quoted pleadings it was necessary to plead the nature of the business which the appellants-plaintiffs wanted to start in the premises. We are of the view that the High Court fell into patent error. It was not necessary for the appellants- landlords to indicate the precise nature of the business which they intended to start in the premises. Even if the nature of business would have been indicated nobody could bind the landlords to start the same business in the premises after it

was vacated.

4. We, therefore, set aside the impugned judgment of the High Court and restore that of the trial Court.

5. Respondents 1 and 2 were the original tenants in the premises. learned Counsel appearing for these respondents has fairly stated that the respondents vacated the suit premises as back as November 1, 1989. It is further stated that the respondents have nothing to do with the premises as at present. The appeal is allowed in the above terms. No costs.