

Shyamlal Agarwal

Vs

Ratanlal Malviya (dead) thr. Lrs.

Civil Appeal No. 4391 of 1984

(K.N. Singh, T.K. Thommen, Kuldip Singh JJ)

24.08.1990

ORDER

1. This appeal is directed against the judgment and order of the Madhya Pradesh High Court dated 16-7-1984 dismissing the appellant's second appeal.
2. On respondent/ landlord's application for the eviction of the appellant/ tenant, the trial Court, the First Appellate Court and the High Court, all have concurrently upheld the respondents' claim that she bona fide required the premises in dispute for demolition and reconstruction. The appellant has challenged those findings in the present appeal.
3. Learned counsel for the appellant urged that the High Court has failed to record any finding that the shop in dispute was in dilapidated condition or that, it required reconstruction, in the absence of such a finding the landlord' & bona fide need could not be upheld. He placed reliance on a number of decisions but since none of them relate to interpretation of S. 12(1)(h) of the Madhya Pradesh Accommodation Control Act, 1961, it is not necessary to refer to those decisions. S. 12(1)(h) of the Act permits eviction of tenant from any accommodation on the-ground that the accommodation is required bona fide by the landlord for there purpose of building or rebuilding or making therein any substantial, addition or alteration. There is no statutory requirement that while, considering the bona fide need of the land-lord for reconstruction of the accommodation the building must necessarily be in a dilapidated condition requiring repair. or demolition. Unlike other Rent Control Laws the Madhya Pradesh Accommodation Act does not expressly provide for any such condition. But even in the absence of such a provision dilapidated or otherwise, condition of the building would be one of the relevant circumstance while considering the bona fide need of the landlord under S. 12(1)(h) of the Act, although that could not be a decisive circumstance in determining the question of bona fide need. Bona fide requirement of the landlord under S. 12(1)(h) may include many relevant factors i.e. the need of the landlord to put the building for better use to obtain higher income, the condition of the building, shortage of accommodation and necessity of having larger accommodation. the capacity of the landlord to rebuild the accommodation, his financial resources etc. All these factors are relevant for the purposes of determining tile question whether the accommodation is required bona fide by the landlord for the purpose of rebuilding the accommodation.
4. In the instant case the appellant's grievance that the courts have not recorded findings with regard to the bona fide need of the landlord is devoid of any merit. There is a clear finding recorded by the subordinate courts on evidence on record upholding the landlord's bona fade need of the

accommodation for rebuilding the same. The High Court referred to the trial Court's finding that on the admitted facts similar adjacent shops which were got vacated by the landlord on the ground of rebuilding have already been rebuilt and the landlord was possessed of sufficient means for the purpose. The High Court further observed that both the courts, namely, the trial Court and the first Appellate Court recorded finding on the question of bona fide need of the landlord. Those findings could not be ignored on the mere ground that the accommodation in dispute was not in a dilapidated condition. As already discussed S. 12(1)(h) of the Act does not provide that the accommodation for the purposes of reconstruction must be in a dilapidated condition. The courts have considered relevant facts and circumstances in upholding the landlord's claim for reconstruction of the accommodation. The High Court's order does not suffer from any legal infirmity warranting interference by this Court.

5. Learned counsel for the tenant states that the tenant would like to have the shop in dispute under this tenancy after it is reconstructed as provided by S. 28 of the Act. We, therefore, direct that the appellant shall handover vacant possession of the shop within two months from today to the respondents and they will reconstruct the building within one year. After the reconstruction, the respondents are directed to offer the newly constructed shop to the appellant on a fair rent within one month from the date of completion of construction.

6. The appeal is accordingly dismissed. There will be no order as to costs.

Appeal dismissed.

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