



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE**

HON'BLE SHRI JUSTICE HIRDESH

ON THE 12th OF JULY, 2024

SECOND APPEAL No. 2259 of 2023

MAHESH KUMAR

Versus

RAJESH KUMAR

Appearance:

(SHRI SHUBHAM NARVARE, ADVOCATE FOR APPELLANT)

(NONE FOR THE RESPONDENT)

ORDER

Appellant/defendant has preferred this appeal under Section 100 of Code of Civil Procedure, 1908, against the judgment and decree dated 21.06.2023 passed by 19th District Judge, District-Indore (MP) in Regular Civil Appeal No.73/2018 arising out of judgment and decree dated 08.02.2018 passed in Civil Suit No.108-A/2013 by 09th Civil Judge, Class-1, Indore (MP).

(2) The brief facts of the case are that the respondent/plaintiff has filed the civil suit for eviction against the appellant/defendant in relation to the suit shop No.22, Santha Bazar, Indore (MP) by stating that the respondent is the landlord of the suit property and appellant/defendant was the tenant in the suit house and was paying Rs.1400/- per month as rent for living in the same. The



appellant/defendant is residing in the suit shop of respondent/plaintiff since 1994. It is stated that now the respondent/plaintiff is in dire need of the suit shop for running a business so he sent a notice to the appellant/defendant for eviction of the suit shop and has stated that he is in the bonafide need of suit shop for the aforesaid purpose.

(3) That, the defendant has denied the averments and has pleaded that plaintiff is in no need of the suit shop and prays for rejection of the suit.

(4) The trial court has framed the issue and on the basis of pleading of both the parties and after taking evidence of both the parties has decreed the suit filed by the respondent/plaintiff on 08.02.2018.

(5) Being aggrieved by the aforesaid judgment and decree passed by the trial court, the appellant/defendant had preferred the appeal before the 19th District Judge, Indore (MP) whereby the first appellate court has dismissed the appeal filed by the appellant by affirming the judgment and decree passed by the trial court.

(6) Counsel for the appellant/defendant has filed this second appeal on the ground that findings of both the courts below are perverse, illegal and arbitrary and both the courts below have committed error by dismissing the appeal filed by the defendant. Thus, on the basis of above, substantial question of law arises for consideration in second appeal and prays that appeal be admitted for final hearing.



(7) I have heard counsel for the appellant/defendant and have perused the records with due care.

(8) From perusal of the record of trial court, it appears that the respondent/plaintiff has filed the civil suit for eviction of suit house against the appellant/defendant under Sections 12(1)(A) and 12(1)(F) of MP Rent Control Act, so the burden of proof lies upon the respondent/plaintiff to prove his case before the trial Court. That the respondent has the bonafide need of suit shop for running the business.

(9) The appellant/defendant has submitted that the trial Court has committed error by holding that the respondent/plaintiff has bonafide need of the suit shop for running the business with his wife but on perusal of the record and evidence adduced by both the parties, the trial court and first appellate court has given concurrent finding that the plaintiff had bonafide need of suit shop for running the said business with his wife.

(10) In the light of the aforesaid discussion, this Court is of the considered opinion that the impugned judgments passed by trial court and first appellate court are well reasoned and based upon the due appreciation of oral as well as documentary evidence available on record. The findings recorded by trial court and first appellate court are concurrent findings of facts. The appellant/defendant has failed to show that how the findings of facts recorded by trial court and first appellate court are illegal, perverse and based on no evidence. Thus, no substantial question



of law arises for consideration in the present second appeal.

(11) Accordingly, present second appeal filed by the appellant/defendant sans merit and is hereby dismissed at the admission stage itself. No order as to costs.

(12) Certified copy, as per Rules.

Arun/-

**(HIRDESH)
J U D G E**