



1

FA-1186-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ALOK AWASTHI

FIRST APPEAL No. 1186 of 2025

*VISHNUPRASAD S/O BHAGWANDASJI GEHLOD THROUGH LRS.
SANDEEP AND OTHERS*

Versus

RAJENDRA SINGH

.....
Appearance:

Shri Akhil Godha, learned counsel for the appellants.

Shri Bhavishya Sharma, learned counsel for the respondent [R-1].

Shri Mukesh Parwal, learned Govt. Advocate for the respondent No.
2/State.

.....
Heard on : 20.08.2025

Pronounced on : 17.09.2025
.....

JUDGMENT

(1) The present appeal is preferred by the appellants under Section 96 of the Code of Civil Procedure, 1908 (hereinafter referred to as "the Code") being crestfallen by the order dated 30.09.2021 passed by learned Xth Additional District Judge, District Indore in COS No. 36-A/2011, whereby the suit filed by the respondent has been allowed and decreed.

(2) The facts leading to the present appeal in nut-shell are that the respondent filed a suit for eviction against the appellants under section 12(1) (a), 12(1)(c) and 12(1)(f) of the M.P. Accommodation Control Act 1961 (in short "the Act"). It was pleaded by the respondent in the plaint that a house



situated at 321/1, Palhar Nagar, Indore is under the ownership of the respondent and the said house was constructed by him by obtaining loan from the P.N.B. Housing Finance Company Limited. It was further pleaded in the plaint that the said house was let out to the Appellants @ of Rs. 5,000/- per month and the tenancy is of oral tenancy and the same will start from every first day of English calendar and end between 1st day to 10th day of the Month. It was further pleaded in the plaint that the other expenses such as electricity, water, and paint of house shall be borne by the Appellants and as and when the respondent need the house, the appellants shall vacate the said house. Since the appellant No.1 is the brother-in-law of the respondent and appellant No. 2 is the real sister of the respondent, therefore, it was agreed between them that the appellants will pay Rs. 5,000/- per month as rent out of which Rs.4500/- per month be paid as installment of loan and remaining Rs.500/- be paid to him but the appellants have never paid the rent regularly and, therefore, rent amount of Rs.6,000/- is due on the appellants. It was further stated that when the respondent is in the need of the suit house for study of his daughter and medical treatment of his brother's wife who is dependent on him, he demanded the vacant possession of the suit house, but the appellants have denied the same and also not paid the rent. In this situation, the respondent has given the legal notice and the appellants have submitted reply to the legal notice and, thereafter, the present suit was filed by the respondent.

(3) The appellants, being defendants filed a written statement stating that the suit filed by the plaintiff is not maintainable as there is no



relationship of landlord and tenant between the appellants and respondent and the suit property is under the ownership and possession of the appellants. It was further stated by the appellants that the appellant no.1 is working as labour and making car seat cover and the appellant No. 2 is doing stitching work and they want to purchase a house but when they tried to obtain loan it came to their knowledge that in any condition they will not get the loan, because, they are not having the required documents to obtain loan. It is necessary to mention here that the sale deed is executed in the name of the person who obtain the loan therefore, the appellants believing and trusting respondent got executed the sale deed in the name of respondent and loan was taken from the Punjab National Bank and the remaining amount of Rs. 1,00,000/- was given by the respondent as loan to the appellants and on 27.05.2005 the sale deed was executed.

(4) The appellants/defendants have denied all averments made in the plaint by contending in their written statement that there is no relation between appellants and respondent as tenant and owner. The disputed house is of the ownership of appellants. Therefore, the suit filed for eviction deserves and liable to be dismissed.

(5) On the basis of aforesaid pleadings, the trial Court framed the following issues :-

1. क्या वादी के स्वत्व आधिपत्य के मकान नं; 321/1 पल्हर नगर इंदौर कंडिका 1 में वर्णित में प्रतिमाह की दर से किरायेदार है ?
2. क्या प्रतिवादीगण पर रु 6500 उक्त मकान का किराया बकाया है ?
3. क्या वादी को उक्त मकान की अपनी पुत्री श्वेता और भाई के बीमार पत्नी के



निवास हेतु सद्भावनापूर्वक आवश्यकता है ?

4. क्या वादी का इंदौर शहर में निवास हेतु अन्य वैकल्पिक स्थान नहीं है ?

5. क्या प्रतिवादीगण द्वारा वादी के मकान मालिक के स्वत्य को इंकार किया गया ?

6. क्या प्रतिवादीगण द्वारा उक्त मकान में नयूसेंस कारित किया जाता है ?

(6) During the course of trial, PW-1 and PW-2 were examined and Ex. P/1 to Ex. P/10 were got marked on behalf of respondent/plaintiff. DW-1 to DW-2 were examined and Ex. D/1 to Ex. D/66 was got marked on behalf of appellants/defendants. The trial Court answered the issues No.1, 2, 3 and 5 & 6 are proved. Issue No. 4 is answered, but not proved. Resultantly, after adducing evidence on record and the fact that the respondent/plaintiff has bonafide need of suit premises for his daughter and the respondent is the owner of the suit property. Hence, the suit has been allowed by the impugned judgment and decree and directed the appellants to vacate the suit premises. Feeling aggrieved and dissatisfied by the impugned judgment and decree, the appellants have preferred this first appeal.

(7) Learned counsel for the appellants submits that the impugned order is contrary to law, facts and circumstances of the case. The learned trial Court has erred in holding that the appellants are the tenants of the respondent @ Rs.5,000/- per month in the house No. 321/1, Palhar Nagar, District Indore. It is submitted that the burden to prove the relationship of landlord and tenant is on the respondent, and respondent has also failed to prove the relationship of landlord and tenant. In the suit, it was mentioned that the respondent have the bonafide requirement of the suit property for the



education of his daughter and medical treatment of his brother's wife, but the said findings of the trial Court is completely contrary to the record. The respondent is not the real owner of the suit property. He has also submitted that when the situation of obtaining the loan was mentioned to the respondent, the respondent has given proposal to the appellants that he will obtain loan as he is having all the requisite documents for obtaining loan and in the sale deed executed is in the name of the person who obtain the loan. Therefore, the appellants believing and trusting respondent got executed the sale deed in the name of respondent and loan was taken from the Punjab National Bank and the remaining amount of Rs.1,00,000/- was given by the respondent as loan to the appellants. He has further submitted that the trial Court only on the basis of sale deed, has held that the respondent is the owner of the property, however, the circumstances which explained the execution of the sale deed has not been considered by the trial Court. On these grounds, he has prayed that the present appeal be allowed by setting aside the impugned order.

(8) To bolster his argument, he has placed reliance in the cases of **Premdas Vs. Laxmi Nakayan Pande, 1964 MPLJ 190** and **Dhanial Bai Vs. Ramkhillawan, 1982 MPWN 472**.

(9) In turn, learned counsel for the respondent vehemently opposed the appeal and argued that the impugned judgment and decree passed by the learned trial Court is in accordance to law and present appeal deserves to be dismissed.

(10) To support his contentions, he has relied upon **Shiv Sarup Gupta**



Vs. Mahesh Chand Gupta, MANU/SC/0432/1999, Sarla Ahuja Vs. United India Insurance Company Ltd., (1998) 8 SCC 119, Prem Kumar Vs. Kanhaiyalal, 2002 (2) MPLJ Dev Shankar Vs. Shashi decided in S.A. No. 1258/2017, Sushma Vs. Late Gulabchandra, 2011 (2) MPLJ, Santosh Kumar Vs. Sooraj Prasad, 2014 (4) MPLJ.

(11) Having heard elaborate arguments advanced on behalf of parties, I have perused the entire record.

(12) Before discussing the above aspects, as the appeal is under Section 96 of Civil Procedure Code, the scope of Section 96 of the CPC is to be considered.

(13) While dealing with the scope of the first appeal, three judges Bench of Hon'ble Apex Court in case of **Santosh Hazari Vs. Purushottam Tiwari (Dead)** By LRs held as follows :-

“.....appellate Court has jurisdiction to reverse or affirm the findings of the trial Court. First appeal is a valuable right of the parties and unless restricted by law, the whole case is therein open for rehearing both on questions of fact and law. The judgment of the appellate Court must, therefore, reflect its conscious application of mind, and record findings supported by reasons, on all the issues arising along with the contentions put forth, and pressed by the parties for decision of the appellate Court. The task of an appellate Court affirming the findings of the trial Court is an easier one. The appellate Court agreeing with the view of the trial Court need not restate the effect of the evidence or reiterate the reasons given by the trial Court; expression of general agreement



with reasons given by the Court, decision of which is under appeal, would ordinarily suffice (See **Girijanandini Devi & Ors. Vs. Bijendra Narain Choudhary**, AIR 1967 SC 1124). We would, however, like to sound a note of caution. Expression of general agreement with the findings recorded in the judgment under appeal should not be a device or camouflage adopted by the appellate Court for shirking the duty cast on it.....”

(14) In case of **H.K.N. Swami v. Irshad Basith**, (2005) 10 SCC 243 Hon'ble Apex Court has held as under :-

“3. The first appeal has to be decided on facts as well as on law. In the first appeal parties have the right to be heard both on questions of law as also on facts and the first appellate court is required to address itself to all issues and decide the case by giving reasons. Unfortunately, the High Court, in the present case has not recorded any finding either on facts or on law. Sitting as the first appellate court it was the duty of the High Court to deal with all the issues and the evidence led by the parties before recording the finding regarding title. The order of the High Court is cryptic and the same is without assigning any reason.”

(15) On the basis of these two judgments, the first appeal has to be decided on the basis of evidence led by the parties and the points raised in the appeal as stated (supra).

(16) Upon perusal of judgment relied upon by the appellants, it is



evident that in **Premdas (supra)**, the issue is involved for ejectment of the defendants from a house and for recovery of rent. Hence, the judgment relied upon is of no avail to the appellants. The judgment relied upon by the appellants in **Dhania Bai (supra)** is also of no avail to the appellants/defendants.

(17) **Section 54** of the Transfer of Property Act, 1882 (In short "T.P. Act") provides that

54. "Sale" defined.

"Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised.

Sale how made.—

Such transfer, in the case of tangible immovable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

In the case of tangible immovable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property.

Delivery of tangible immovable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale.—



A contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property.

(17A) **Section 17** of the Indian Registration Act, 1908 is worth to be referred as under :-

Documents of which registration is compulsory.

(1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act XVI of 1864, or the Indian Registration Act, 1866, or the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or this Act came or comes into force, namely,

- (a) instruments of gift of immovable property;
- (b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property;
- (c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and
- (d) leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent;
- (e) [non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish,



whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property:] [Inserted by Act 21 of 1929, Section 10.]

Provided that the [State Government] [Substituted by A.O.1950, for "Provincial Government" .] may, by order published in the [Official Gazette] [Substituted by A.O.1937, for "Local Official Gazette" .], exempt from the operation of this sub-section any leases executed in any district, or part of a district, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

[(1-A) The documents containing contracts to transfer for consideration, any immovable property for the purpose of section 53-A of the Transfer of Property Act, 1882, shall be registered if they have been executed on or after the commencement of the Registration and Other Related Laws (Amendment) Act, 2001, and if such documents are not registered on or after such commencement then, they shall have no effect for the purposes of the said section 53-A.] [Inserted by Act 48 of 2001, Section 3 (w.e.f. 24.9.2001).]

(2) Nothing in clauses (b) and (c) of sub-section (1) applies to

- (i) any composition deed; or
- (ii) any instrument relating to shares in a joint stock company, notwithstanding that the assets of such company consist in whole or in part of immovable property; or
- (iii) any debenture issued by any such company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest, to or in immovable property except insofar as it entitles the holder to the security afforded by a registered instrument whereby the company has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the



benefit of the holders of such debentures; or
(iv) any endorsement upon or transfer of any debenture issued by any such company; or
(v) [any document other than the documents specified in sub-section (1-A)] [Substituted by Act 48 of 2001, Section 3, for "any document" (w.e.f. 24.9.2001).] not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immovable property, but merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or extinguish any such right, title or interest; or
(vi) any decree or order of a Court [except a decree or order expressed to be made on a compromise and comprising immovable property other than that which is the subject-matter of the suit or proceeding] [Substituted by A.O.1937, for "and any award" .]; or
(vii) any grant of immovable property by the [Government] [Substituted by A.O.1950, for "Crown" .]; or
(viii) any instrument of partition made by a Revenue Officer; or
(ix) any order granting a loan or instrument of collateral security granted under the Land Improvement Act, 1871, or the Land Improvement Loans Act, 1883; or
(x) any order granting a loan under the Agriculturists Loans Act, 1884, or instrument for securing the repayment of a loan made under that Act; or
[(x-a) any order made under the Charitable Endowments Act, 1890, vesting any property in a Treasurer of Charitable Endowments or divesting any such Treasurer of any property; or] [Inserted by Act 39 of 1948, Section 2 (w.e.f. 3.9.1948).]
(xi) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage; or
(xii) any certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue Officer.



[Explanation [Inserted by Act 2 of 1927, Section 2.] a document purporting or operating to effect a contract for the sale of immovable property shall not be deemed to require or ever to have required registration by reason only of the fact that such document contains a recital of the payment of any earnest money or of the whole or any part of the purchase money.]

(3) Authorities to adopt a son, executed after the first day of January, 1872, and not conferred by a will, shall also be registered.

"[(1-A) The documents containing contracts to transfer for consideration, any immovable property for the purpose of section 53-A of the Transfer of Property Act, 1882, shall be registered if they have been executed on or after the commencement of the Registration and Other Related Laws (Amendment) Act, 2001, and if such documents are not registered on or after such commencement then, they shall have no effect for the purposes of the said section 53-A.] *[Inserted by Act 48 of 2001, Section 3 (w.e.f. 24.9.2001).]*"

(18) **Section 15 of T.P. Act**, can be summered as under:-

"If, on a transfer of property, an interest therein is created for the benefit of a class of persons with regard to some of whom such interest fails by reason of any of the rules contained in sections 13 and 14, such interest fails in regard to those persons only and not in regard to the whole class."

(19) Admittedly, no registered agreement is on record and under Section 17 of the Registration Act, written agreement is required to be registered. Oral agreement was not admissible in evidence. An oral agreement, could not be used to establish that the suit property was used by



the appellants having ownership thereon.

(20) **Section 64** of the Indian Evidence Act, 1872 (for brevity "the Act, 1872") (Section 59 of the Bharatiya Shakshya Adhiniyam, 2023) (In short "Adhiniyam, 2023"), defines '**Proof of documents by primary evidence**' thus :

"Documents must be proved by primary evidence except in the cases hereinafter mentioned."

(21) It considers primary evidence to be of utmost importance and gives it a higher status as compared to other evidence. Section 64 of the Act mandates the presentation of primary evidence for proving the contents of the document.

(22) **Section 65 of the Act, 1872** (Section 60 of Adhiniyam, 2023) is reproduced as below :

Secondary evidence may be given of the existence, condition or contents of a document in the following cases :

(a) When the original is shown or appears to be in the possession or power of the person against whom the document is sought to be proved, or of any person out of reach of, or not subject to, the process of the Court, or of any person legally bound to produce it, and when, after the notice mentioned in section 66, such person does not produce it;

(b) When the existence, condition or contents of



the original have been proved to be admitted in writing
by the person against whom it is proved or by his
representative in interest;

(23) Furthermore, Section 91 of the Act, 1872 (Section 94 of Adhiniyam, 2023) is pertinent to mention as follows :-

Evidence of terms of contracts, grants and other dispositions of property reduced to form of document.

"When the terms of a contract, or of a grant, or of any other disposition of property, have been reduced to the form of a document, and in all cases in which any matter is required by law to be reduced to the form of a document, no evidence shall be given in proof of the terms of such contract, grant or other disposition of property, or of such matter, except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under the provisions herein before contained."

(24) Likewise, Section 92 of the Act, 1872 (Section 95 of the Adhiniyam, 1872) is referred as under :-

Exclusion of evidence of oral agreement.

"When the terms of any such contract, grant or other disposition of property, or any matter required by law to be reduced to the form of a document, have been proved according to the last section, no evidence of any oral agreement or statement shall be admitted, as between the parties to any such instrument or their representatives in interest, for the purpose of contradicting, varying, adding to, or subtracting from,



its terms:

Proviso (1). -- Any fact may be proved which would invalidate any document, or which would entitle any person to any decree or order relating thereto; such as fraud, intimidation, illegality, want of due execution, want of capacity in any contracting party, 1[want or failure] of consideration, or mistake in fact or law.

Proviso (2). -- The existence of any separate oral agreement as to any matter on which a document is silent, and which is not inconsistent with its terms, may be proved. In considering whether or not this proviso applies, the Court shall have regard to the degree of formality of the document.

Proviso (3). -- The existence of any separate oral agreement, constituting a condition precedent to the attaching of any obligation under any such contract, grant or disposition of property, may be proved.

Proviso (4). -- The existence of any distinct subsequent oral agreement to rescind or modify any such contract, grant or disposition of property, may be proved, except in cases in which such contract, grant or disposition of property is by law required to be in writing, or has been registered according to the law in force for the time being as to the registration of



documents.

Proviso (5). Any usage or custom by which incidents not expressly mentioned in any contract are usually annexed to contracts of that description, may be proved:

Provided that the annexing of such incident would not be repugnant to, or inconsistent with, the express terms of the contract.

Proviso (6). -- Any fact may be proved which shows in what manner the language of a document is related to existing facts."

(25) This rule is based on the principle that a written document is the most reliable record of an agreement. It applies to the parties involved and their representatives and covers agreements required by law to be in writing. In the case at hand, the appellants are claiming their ownership on the suit property only on the basis of oral evidence, which cannot be applicable.

(26) **Section 93** of the Act, 1872 (**Section 96** of Adhiniyam, 2023) is to be referred as mentioned below :-

"93. Exclusion of evidence to explain or amend ambiguous document.
When the language used in a document is, on its face, ambiguous or defective, evidence may not be given of fact which would show its meaning or supply its defects."

(27) **Section 94** of the Act, 1872 (**Section 97** of Adhiniyam, 2023) is also condign to quote here :-



"Exclusion of evidence against application of document to existing facts.

When language used in a document is plain in itself, and when it applies accurately to existing facts, evidence may not be given to show that it was not meant to apply to such facts."

(28) In the present case, the respondent has stated in his statement that Rs.5,000/- was fixed as monthly rent of the suit property. On the other hand, the appellants stated that Rs.5,000/- per month was being paid by them, out of which Rs.4,500/- was being paid as installment of loan and remaining amount of Rs.500/- in the account of respondent. Hence, if any document, which requires authentication, should have clear language and here, no such type of documents has been annexed or placed on record.

(29) **Section 101** of the Act, 1872 (Section 104 of Adhiniyam, 2023) is also worth to be referred as under :-

Burden of proof,

"Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist. When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person."

(30) **Section 102** of the Act, 1872 (Section 105 of Adhiniyam, 2023) defines '**burden of proof**' as under :-

"The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side."

(31) Normally, the initial burden of proving the execution of a



document when it is denied must rest upon the person alleging its execution. Here, in the present case the respondent has denied the facts with regard to the loan. The person who would fail in the absence of any evidence bears the responsibility to produce proof.

(32) In terms of the said provision, the burden of proving the fact rests on the party who substantially asserts the affirmative issues and not the party who denies it.

(33) Here, it is necessary to elaborate that the pleading is not evidence, far less proof. Issues are raised on the basis of the pleadings. The appellants/defendants having not admitted or acknowledged the fiduciary relationship between the parties, indisputably, the relationship between the parties itself would be an issue. In view of Section 101 & 102 of the Evidence Act, the burden of proof would be on the party who asserts the affirmative of the issue and it rests, after evidence is gone into, upon the party against whom, at the time the question arises, judgment would be given, if no further evidence were to be adduced by either side.

(34) The facts as per the pleadings and evidence are that an oral agreement was done between the parties with regard to tenancy of the suit property. The respondent/plaintiff Vishnuprasad (PW-1) before the trial Court has categorically stated in his statement that disputed property is in the ownership of the respondent/plaintiff and as the appellants/defendants and respondent/plaintiff are relatives, an oral agreement was established between them in respect of rent. According to oral agreement, appellants/defendants are tenant in a house, owned by the respondent/plaintiff. Respondent/plaintiff



has also submitted a copy of sale deed (Ex.P/-1), receipt of changing the name in Electricity Meter (Ex.P/6), Municipal Corporation, Indore property tax receipt (Ex.-P/7) & PNB Housing Finance Loan sanction letter (Ex.P/8).

(35) In view of the facts referred (supra), the trial Court ought to have considered whether the respondent/plaintiff has proved his title on the basis of copy of sale deed (Ex.P/-1), receipt of changing the name in Electricity Meter (Ex.P/6), Municipal Corporation, Indore property tax receipt (Ex.-P/7) & PNB Housing Finance Loan sanction letter (Ex.P/8), which established that the respondent/plaintiff constructed house by taking loan and he is owner of the house in question. Hence, no rights flow in favour of the appellants/defendants.

(36) So far as the question of need of suit property shown by the respondent/plaintiff and another available accommodation is concerned, the availability of an alternate accommodation with the landlord i.e. an accommodation other than the one in occupation of the tenant wherefrom he is sought to be evicted has a dual relevancy. Firstly, the availability of another accommodation, suitable and convenient in all respects as the suit accommodation, may have an adverse bearing on the finding as to bonafides of the landlord if he unreasonably refuses to occupy the available premises to satisfy his alleged need. Availability of such circumstance would enable the Court drawing an inference that the need of the landlord was not a felt need or the state of mind of the landlord was not honest, sincere, and natural. Secondly, another principal ingredient of clause (e) of sub-section (1) of Section 12, pertains to the bonafide residential requirement of the landlord



for themselves or a family member, providing a valid ground for a landlord to seek eviction of a tenant. The tenant must vacate if the landlord can prove that the accommodation is needed for their own or their family's residence and that they lack any other reasonably suitable residential accommodation in the city or town.

(37) As to impact availability of vacating the accommodation for the landlord, it must satisfy the test of suitability for satisfying the need of the landlord.

(38) On this aspect, the operative paragraph of the judgment of Hon'ble Apex Court in the case of **Sarla Ahuja (supra)**, is poignant to quote here :-

“.....When a landlord asserts that he requires his building for his own occupation the Rent Controller shall not proceed on the presumption that the requirement is not bona fide. When other conditions of the clause are satisfied and when the landlord shows a prima facie case it is open to the Rent Controller to draw a presumption that the requirement of the landlord is bona fide. It is often said by courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting possession of the tenanted premises. While deciding the question of bonafides of the requirement of the landlord, it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself.....”

(39) In the present case, it is well established that after taking into account the aforesaid broad aspects, the respondent/plaintiff is in actual need of the suit property. It cannot be said that the trial Court had taken into account irrelevant factors in reaching the conclusion. Hence, the trial Court has properly applied its mind in proving the issue relating to the need of



accommodation of the respondent/plaintiff.

(40) In the upshot of the aforesaid analysis of law and deliberation in entirety, so also considering the documents/exhibits placed on record, this Court does not find any infirmity or irregularity in the order passed by the Court below. Accordingly, the First Appeal fails and it is dismissed.

(41) Accordingly, impugned judgment and decree dated 30.09.2021 passed by Xth Additional District Judge, District Indore in COS No.36-A/2011 is hereby affirmed. Consequently, the appeal is hereby dismissed. Cost of Civil Suit as well as the instant appeal will be borne by the appellants/defendants. Decree be drawn accordingly.

(42) All pending I.As, if any, in the case are hereby dismissed.

(43) Let record of trial Court be sent back to the concerned Court alongwith copy of this judgment.

(ALOK AWASTHI)
JUDGE

Vindesh