

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL**

ON THE 24th OF APRIL, 2025

SECOND APPEAL No. 294 of 2012

PARASRAM KANOJIA DEAD THROUGH LRS. SHANTI AND OTHERS
Versus
***NAND KUMAR MISHRA DEAD THROUGH LRS. SMT. NILAM MISHRA
AND OTHERS***

Appearance:

Shri Mohd. Azhar Khan - Advocate for the appellants.

Shri Amit Verma - Advocate for the respondents.

ORDER

This second appeal is preferred by the original defendant/appellant-Parasram Kanojia (now dead, through LRs), challenging the judgment and decree dated 09.02.2012 passed by 1st Addl. Judge to the Court of 1st Addl. District Judge, Bhopal, in regular civil appeal no.196A/2010 affirming the judgment and decree dated 27.08.2010 passed by 3rd Civil Judge Class-I, Bhopal in RCS no.615A/2006 whereby Courts below have concurrently decreed original plaintiff/respondent-Nand Kumar Mishra's (now dead, through LRs) suit for eviction on the grounds under Section 12(1)(b) & (f) of the M.P. Accommodation Control Act, 1961 (in short 'the Act').

2. In short, the facts are that the original landlord Nand Kumar Mishra instituted a suit for eviction of original defendant/tenant Parasram Kanojia with the allegations that the defendant is tenant of the plaintiff in the rented shop on monthly rent of Rs.1,000/-. It is alleged that the plaintiff being Advocate and Notary is in need of the shop for starting his office, which has already been sublet by the defendant. On inter alia allegations, the suit was filed.

3. The defendant appeared and filed written statement denying the plaintiff allegations and contended that in fact the plaintiff is not in need of the shop for starting Advocate office and the shop has not been sublet by the defendant to any other person. On inter alia contentions, the suit was prayed to be dismissed.

4. On the basis of pleadings of the parties, trial Court framed issues and recorded evidence led by the parties and after hearing arguments and upon due consideration of the material available on record held that the defendant has sublet the shop to some other person and the plaintiff is in need of the shop for starting Advocate office and decreed the suit on both the grounds available under section 12(1)(b) and (f) of the Act vide judgment and decree dated 27.08.2010, which upon filing appeal by the defendant/tenant has been affirmed by first appellate Court vide impugned judgment and decree dated 09.02.2012.

5. Against the aforesaid concurrent judgment and decree passed by Courts below, the original defendant preferred second appeal which was admitted for final hearing on 02.05.2012 on the following substantial questions of law:-

“1. Whether, the lower Appellate Court was right in dismissing the application under Order 6 Rule 17 CPC and application under Order 41 Rule 27 CPC, without any cogent reason and without considering additional evidence and pleadings, sought to be produced on record by the appellant ?

2. Whether, the Court below was right in granting the decree under Section 12(1)(f) in favour of the respondent/plaintiff, ignoring the fact about the availability of the suitable accommodation which was got vacated during pendency of the suit ?

3. Whether, the Courts below were right in granting the decree of eviction against the appellant under Section 12(1)(b) of the M.P. Accommodation Control Act, without taking into consideration the evidence available on record ?”

6. In the case of Kishore Singh vs. Satish Kumar Singhvi, **2017(3) JLJ 375**, a coordinate Bench of this Court has relied upon the decision of Hon’ble Supreme Court in the case of Ragavendra Kumar vs. Firm Prem Machinery and Company, **AIR 2000 SC 534**, and held that the findings recorded on the question of bonafide requirement do not give rise to any substantial question of law.

7. After arguing at length and realizing the settled legal position in respect of concurrent findings of facts recorded by Courts below relating to bonafide requirement and subletting in view of scope of interference available under Section 100 of C.P.C., learned counsel for the appellants do not want to press this second appeal and prays for one year time for vacating the rented shop, which has not been opposed by learned counsel for the respondents.

8. In view of prayer made by learned counsel for the appellants, by declining interference in the impugned judgment and decree passed by Courts below, this Court deems fit to grant time for vacating the tenanted shop upto **30.04.2026** on the following conditions : -

(i) The appellants/defendants/tenants shall vacate the tenanted shop on or before **30.04.2026**.

(ii) The appellants/defendants shall regularly pay monthly rent to the respondents/landlords and shall also clear all the dues, if any, including the costs of the litigation, if any, imposed by Courts below, within a period of 30 days.

(iii) The appellants/defendants shall not part with the tenanted shop to anybody and shall not change nature of the same.

(iv) The appellants/defendants shall furnish an undertaking with regard to the aforesaid conditions within a period of three weeks before the learned Court below/Executing Court.

(v) If the appellants/defendants fail to comply with any of the aforesaid conditions, the respondents/landlord shall be free to execute the decree forthwith.

(vi) If after filing of the undertaking, the appellants/defendants/tenants do not vacate the tenanted shop on or before 30.04.2026 and create any obstruction, they shall be liable to pay mesne profits of Rs.500/- per day, so also contempt of order of this Court.

(vii) It is made clear that the defendants/appellants shall not be entitled for further extension of time after **30.04.2026**.

9. With the aforesaid observations, this second appeal is hereby **dismissed/disposed off as withdrawn.**

10. Misc. application(s), pending if any, shall stand closed and interim order of stay, if any, shall stand vacated.

(DWARKA DHISH BANSAL)
JUDGE

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