



1

CR-862-2024

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 6<sup>th</sup> OF NOVEMBER, 2025

CIVIL REVISION No. 862 of 2024

*VIRENDRA GUPTA*

*Versus*

*SMT. LAXMI DEVI*

.....  
Appearance:

Shri Sanjay Sarwate - Advocate for the petitioner.

Shri Mihir Lunawat - Advocate for the respondent.

.....  
WITH

CIVIL REVISION No. 861 of 2024

*SANJAY DHANARE*

*Versus*

*SMT. LAXMI DEVI*

.....  
Appearance:

Shri Sanjay Sarwate - Advocate for the petitioner.

Shri Mihir Lunawat - Advocate for the respondent.

.....  
CIVIL REVISION No. 863 of 2024

*RAJESH SONI*

*Versus*

*SMT. LAXMI DEVI*

.....  
Appearance:

Shri Sanjay Sarwate - Advocate for the petitioner.

Shri Mihir Lunawat - Advocate for the respondent.



CIVIL REVISION No. 864 of 2024

*RAJENDRA GUPTA*

*Versus*

*SMT. LAXMI DEVI*

.....  
Appearance:

Shri Sanjay Sarwate - Advocate for the petitioner.

Shri Mihir Lunawat - Advocate for the respondent.

.....  
CIVIL REVISION No. 865 of 2024

*SANJAY SHRIVASTAVA*

*Versus*

*SMT. LAXMI DEVI*

.....  
Appearance:

Shri Sanjay Sarwate - Advocate for the petitioner.

Shri Mihir Lunawat - Advocate for the respondent.

.....  
CIVIL REVISION No. 866 of 2024

*MAJID QURESHI*

*Versus*

*SMT. LAXMI DEVI*

.....  
Appearance:

Shri Sanjay Sarwate - Advocate for the petitioner.

Shri Mihir Lunawat - Advocate for the respondent.

.....  
CIVIL REVISION No. 867 of 2024

*MAMTA KHATRI AND OTHERS*

*Versus*

*SMT. LAXMI DEVI*

.....  
Appearance:

Shri Sanjay Sarwate - Advocate for the petitioner.



Shri Mihir Lunawat - Advocate for the respondent.

.....

**CIVIL REVISION No. 868 of 2024**

***AVDHESH SHRIVASTAVA***

*Versus*

***SMT. LAXMI DEVI***

.....

**Appearance:**

Shri Sanjay Sarwate - Advocate for the petitioner.

Shri Mihir Lunawat - Advocate for the respondent.

.....

**ORDER**

Since common issue is involved for adjudication in all the petitions, therefore, they are being heard analogously and decided by this common order. However, for the sake of convenience, the facts of the case are being taken up from the Civil Revision No.862/2024.

2 . The present revision petition has been filed by the petitioner assailing the order dated 19.07.2024 passed in Revenue Case No. 0036/B-121/2019-2020 re-numbered as Revenue Case No. 0004/Review/2024-25, whereby the Rent Controlling Authority allowing the application submitted under Section 23 of the M.P. Accommodation Control Act, 1961 (Hereinafter referred to as 'the Act, 1961') has directed the petitioner to hand over the vacant possession of the rented shop to the respondent.

3. It has been contended by the learned counsel for the petitioner that in the earlier round of litigation, the Rent Controlling Authority (For short RCA) without taking reply on record had passed an order of eviction, which was challenged in Civil Revision No. 245/2020. This Court vide order dated



05.01.2020 had allowed the revision by remanding back to the RCA with a direction to take the written statement already filed by the petitioner on record at the cost of Rs.3,000/- and then decide the pending application filed under Section 23 of the Act, 1961 within a period of six months as provided under Section 23(D)(1) of the Act, 1961.

4. In compliance of the said order passed by this Court, the RCA has decided the present matter renumbering the case as Review. However, it is admitted by the parties that the RCA in compliance of the orders and directions issued by the Court had adjudicated the matter.

5. It has been contended by the learned counsel for the petitioner that the order is bad in law on the count that the RCA without considering that there is no evidence in support of bonafide need of the respondent has adjudicated the matter and found such need proved in favour of the respondent. Accordingly, the RCA has committed a grave error of law and jurisdiction. It is further submitted that the respondent has foregone the right to adduce the evidence in the matter vide the statement made before the RCA reported and recorded in the order sheet dated 12.03.2024 of the RCA. Thus, there is no evidence tendered by the respondent/landlord in support of the bonafide need and thus, it cannot be presumed to be proved in the eyes of law. It is further submitted that the RCA in its discussion has also opined that the petitioner has not paid rent in time and thus, there are arrears of rent against the petitioner. However, the order has been passed only on the ground of bonafide need of the respondent.

6. The counsel for the petitioner has relied on the order passed by this



5

CR-862-2024

Court      in Civil      Revision      No.      117/2013-Shyamlal      Vyas      vs.

**Inderchand** reported in (2017) 3 MPWN 273 to submit that the Court in that case has opined that the presumption under Section 23-D(3) of the Act is in respect of bonafide requirement, but it does not shift the onus to lead the evidence in respect of other aspects of the claim.

7. Learned counsel for the petitioner has also relied on the judgment of Hon'ble Apex Court passed in the case of **Chowdamma (D) by LR and Anr. v. Venkatappa (D) by LRs and Anr** reported in AIR Online 2025 SC 792 to submit that the effect of parties failure to enter into the Witness Box has been discussed and opined by the Hon'ble Apex Court. It is submitted that the Hon'ble Apex Court following the judgment of the Hon'ble Apex Court passed in the case of **Vidhyadhar vs. Manikrao and Anr.** reported in (1999) 3 SCC 573 has held that where a party to the suit does not appear in the witness box and states his own case on oath and does not offer himself to be cross-examined by the other side, a presumption would arise that the case set up by him is not correct. It is submitted that in the present case as the respondent herself has reported and recorded that she does not want to submit any evidence in support of her case of eviction on the ground of bonafide need, the inference shall be drawn against her that she has suppressed the material evidence against the respondent. On this account also, the petitioner has prayed that the order is bad in law and thus, required to be quashed.

8. *Per contra*, learned counsel for the respondent has submitted that under Section 23-A of the Act, 1961, a special category has been carved out



by the Statute in respect of the eviction of the tenant on the ground of bonafide need of a non-residential purpose required for continuing or starting business of any of his/her major son or unmarried daughter and such landlord or person has no other reasonably suitable non-residential accommodation of his own in his occupation in the city or the town concerned. It has been submitted that Section 23-J of the Act, 1961 provides that the proceedings of eviction can only be initiated by the landlord defined therein, which includes a widow or a divorced wife.

9. It has been submitted by the learned counsel for the respondent that Section 23-D sub Section (3) of the Act, 1961 provides for a presumption in respect of the landlord in regard to the bonafide need unless contrary is proved. Thus, the respondent/landlord was not required to tender any evidence in regard to bonafide need, which is presumed under the Act, 1961 to be bonafide, unless contrary is proved.

10. Learned counsel for the respondent, to bolster his submission, has relied on the judgment of the Hon'ble Apex Court passed in the case of **Dhannalal vs. Kalawatibai and others** reported in (2002) 6 SCC 16 to submit that in the proceeding initiated under Section 23 of the Act, 1961, the tenant cannot contest the prayer for eviction from accommodation unless leave to defend is sought for by moving an application within the prescribed period of time and allowed.

11. Learned counsel for the respondent has also relied on the judgment of Hon'ble Apex Court passed in the case of **Akhileshwar Kumar and others vs. Mustaqim and others** reported in (2003) 1 SCC 462 to submit that the



tenant cannot dictate the Court and the landlord in regard to the need is already fulfilled by the other accommodation. It is the objective assessment of the court in regard to the subjective choice of the needy.

12. Heard the learned counsel for the parties and perused the record.

13. It is evident from the impugned order that the RCA while dealing with the application submitted under Section 23 of the Act, 1961 has though discussed the facts in regard to non-payment of arrears of rent despite of service of notice, but, no order in regard to payment of such arrears of rent or eviction based on such arrears has been passed. Thus, the contention of the petitioner that the order has been passed also on the ground of arrears of rent is against the record. Mere any discussion in the order in regard to the arrears of rent does not make the order without jurisdiction as there is no such direction of eviction on the ground of arrears of rent. It is within the domain of the RCA to pass an order in respect of the eviction of the tenant on the ground mentioned in Section 23 of the Act, 1961, which is a bonafide need. From the impugned order, it is abundantly clear that the order has been passed only on the ground of bonafide need. Thus, this Court is of the considered opinion that such discussion would not make the entire order without jurisdiction when there is no order of payment of arrears of rent or eviction on the ground of arrears of rent.

14. The RCA while dealing with the question of bonafide need has opined that there is no alternative accommodation, which has been proved by the petitioner/tenant, which exists within the vicinity to start or continue the business of respondent's son. The fact of bonafide need presumed to be



proved as per the provisions of law, which could not be rebutted by the petitioner/tenant herein. It is opined that the respondent/landlord being the best judge for the bonafide need and having a freedom and liberty to have a subjective choice of accommodation has rightly sought the eviction of the disputed/rented shop and accordingly the RCA has passed an order of eviction against the petitioner.

15. Learned counsel for the petitioner has submitted that as the respondent has not tendered any evidence in respect of proof of bonafide need, it cannot be presumed that the need of the rented shop is based on bonafide need, however, rebutting the contention of the petitioner, the counsel for the respondent has invited attention of this Court towards the evidence tendered by the respondent's witness Virendra Kumar, who himself is tenant in a rented shop. The witness has categorically stated that the son of the respondent for whose need the application for eviction has been filed is unemployed and in the entire evidence nothing has been submitted or proved in respect of any alternative accommodation of the respondent/landlord exists within the vicinity, which is more suitable.

16. The Hon'ble Apex Court in the case of **Akhileshwar Kumar (supra)** has held that it is not the tenant who can dictate the choice of the landlord for eviction of a particular premises, but, in fact, it is the objective assessment of the court of the subjective satisfaction of the needy. Thus the contention of the petitioner that one of the shop got vacated during the proceeding was more suitable to the respondent than the shops for which the application for eviction has been filed has no force.





17. Similar principle has been laid down by the Hon'ble Apex Court in the case of **Dhannalal (supra)** that in the proceeding initiated under Section 23 of the Act, 1961, the tenant cannot contest the prayer for eviction from accommodation unless leave to defend is sought for by moving an application within the prescribed period of time and allowed. When the leave is granted to the tenant by the Court to contest the application, the Rent Controlling Authority shall hold an enquiry consistently with the practice and procedure of a Court of Small Causes. The requirement of the landlord is presumed to be bona fide unless the contrary is proved, that is to say, the burden of proof is placed on the tenant to rebut the case of the landlord contrary to the ordinary procedure in a civil court where the burden of proof lies on the landlord. As against an order of eviction passed by the RCA, a revision lies to the High Court and the remedy of appeal is excluded.

18. From perusal of the reply submitted by the petitioner, it is found that no such plea in support of the alternative accommodation has been taken. From the record also it is found that there is no such evidence on the record to support the contention of the petitioner that despite of the availability of alternative accommodation, which was more suitable, the order of eviction has been passed.

19. Now the facts of the case, when tested on the principle laid down by this Court in the case of **Shyamlal Vyas (supra)**, relied by the petitioner, it is found that in the written statement submitted by the petitioner, there is no challenge of the title of the respondent/landlord. In the present case in hand, there is no other aspect, which was required to be proved by the respondent.



It was the only point in issue in regard to the eviction on the ground of bonafide need of the respondent/landlord. Thus, the principle, as laid down by this Court, is not applicable in the present case in hand. The respondent/landlord, if has not tendered any evidence in respect of the bonafide need then it is in accordance with Section 23-D (3) of the Act, 1961, which is justified, however, as per the said provision, the petitioner was required to prove contrary, which the petitioner has failed to do so either in the written statement or on the basis of evidence, as discussed hereinabove. Thus, the case law cited by the petitioner in respect of the evidence not tendered by the respondent/landlord is not useful for the petitioner in the present case in hand.

20. In the case of **Shyamlal Vyas (supra)**, the Court has opined that the presumption under Section 23-D(3) of the Act is in respect of bonafide requirement, but it does not shift the onus to lead the the evidence in respect of other aspects of the claim and, therefore, the landlord could not have sought exemption from leading his own evidence. In that case, the title of the landlord was in dispute and thus, the Court has further opined that the tile of the landlord being in dispute, there is no un-rebuttable presumption under Section 23-D(3) of the Act as to the ownership of the premises. Thus, the landlord was required to prove the said aspect of the matter, which was not proved. In that case, the landlord was the petitioner and filed the revision against the dismissal of his application on the ground that the respondent/tenant therein had refused to give his evidence, but the Court has held that it does not shift the onus on the tenant to prove the other aspects of



the matter. It is on the petitioner/landlord therein to prove the other aspects of the matter including the title.

21. Similarly, the Hon'ble Apex Court in the case of **Chowdamma (supra)** has observed that when the landlord has not tendered the evidence, adverse inference shall be drawn against the landlord, but this principle would also not support the petitioner in the backdrop of the factual matrix of the case because as per the provisions of Section 23-D (3) of the Act, 1961, the bonafide need is presumed to be proved in favour of landlord being a special category of the landlord in the Act. Thus, in support of such presumption no further evidence is required. In fact, on the contrary, the petitioner was required to submit any contrary evidence against the bonafide need, which the petitioner has failed to do so. Thus, no adverse inference can be drawn against the presumption, which has been bestowed in favour of the landlord by the Statute.

22. In the present case in hand, there is no dispute that the respondent being landlord is a widow and falls within the category of Section 23-J (iii) of the Act, 1961 to initiate such proceeding, which is special in nature and provides the summary proceeding to culminate the eviction proceeding in a time bound manner with certain presumptions in favour of the landlord in regard to bonafide need.

23. Thus, on the above analysis of the facts and law, this Court is of the considered opinion that the proceedings being summary in nature and the determination is final by the RCA, this Court under revisional jurisdiction cannot interfere with the findings, which have been arrived at by the RCA on



the basis of the factual matrix and evidence led by the parties. This Court has not found any irregularity, illegality much less the jurisdictional error in deciding the application submitted by the respondent/landlord for the eviction of the rented shop. Thus, the revisions sans merit and are hereby dismissed.

(DEEPAK KHOT)  
JUDGE

RAGHVENDRA