2025 INSC 564

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4275 OF 2017

MURLIDHAR AGGARWAL (D.)
THR. HIS LR. ATUL KUMAR AGGARWAL APPELLANT(s)

VERSUS

MAHENDRA PRATAP KAKAN (D.)
THR. LRS. AND ORS. RESPONDENT(s)

J U D G M E N T

K.V. Viswanathan, J.

1. The present appeal calls in question the correctness of the Judgment and Order dated 09.01.2013 in Writ-A No. 8508 of 1999 passed by the High Court of Judicature at Allahabad. By the said Judgment and Order, the High Court dismissed the Writ Petition of the appellant and confirmed the order of the Appellate Authority. The Appellate Authority had reversed the order of the Prescribed Authority dated 20.12.1983 by which the Prescribed Authority had

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allowed the application of the appellant and ordered the eviction of the respondent-Ram Agya Singh on the ground of *bona fide* need.

BRIEF FACTS: -

2. On 13.10.1952, the respondents entered the suit property by virtue of a lease deed executed by one Ram Swarup Gupta, the then owner of the suit property. The lease was for a period of 10 years. The predecessor-in-interest of the present appellant, one Shri Murlidhar Aggarwal purchased the suit property on 26.03.1962. The suit property is a Cinema building situated at 31, Shiv Charan Lal Road, Allahabad, popularly known as Mansarovar Palace, along with its furniture, fixture and fittings.

3. There is a previous round of litigation which requires a brief mention. Case No. 124 of 1965 was instituted by Murlidhar Aggarwal seeking eviction under Section 7A of the U.P. (Temporary) Control of Rent and Eviction Act, 1947 (for short '1947 Act'). An order of eviction was made by the Additional District Magistrate which was confirmed by the Additional Commissioner. On a revision filed under Section 7F of the 1947 Act, the tenants succeeded in getting the

eviction order set aside by filing a representation before the State Government. Though the learned Single Judge at the behest of Shri Murlidhar Aggarwal quashed the order of the State Government, the Division Bench reversed the order and this Court, by a judgment reported in ***Murlidhar Aggarwal*** v. ***State of U.P.***, (1974) 2 SCC 472, confirmed the order of the Division Bench. The net result was that the proceedings came to an end and the tenants continued to occupy the premises.

4. On 09.10.1975, Murlidhar Aggarwal, the predecessor-in-interest of the appellant herein filed Case No. 301 of 1975 under Section 21(1)(a) of the Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (for short 'Act of 1972'). Though Rajkumar Aggarwal was applicant no. 2 before the Appellate Authority, it is not in dispute that he has since relinquished his claim.

5. As is clear from the order of the Prescribed Authority, it was specifically pleaded in the application that the said Shri Murlidhar Aggarwal was living at the mercy of his father; that he has his wife and children to look after; that there was no independent business

which they are doing and that in spite of their father's repeated advice to start some business they are not able to get a place to start the business; that the opposite party is refusing to vacate the premises in spite of the expiry of the lease; that the opposite party has other places where he is carrying on business apart from their own residential house; that the opposite party has cinema business in Gazipur and Varanasi and are also doing film distribution business. It was specifically pleaded that there was no independent income for the applicants, and they are in *bona fide* need of the property. It was also pleaded that their need was pressing, *bona fide* and genuine.

6. In response, the respondent-tenant (Ram Agya Singh, the predecessor of the respondents) pleaded that he has spent around Rs. 30,000/- over the property, that the applicants are in joint family business with their father Radhey Shyam Aggarwal; that Radhey Shyam Aggarwal is running his business in the name of Ajanta Talkies; and that the wife of Murlidhar Aggarwal, Prem Lata is a co-licensee with her father-in-law in the Ajanta Talkies business. It was also pleaded that the applicants have share in the firm Murlidhar Gyanendra Kumar and that the monthly income was more than

sufficient for applicant No. 1 to maintain himself, his wife and children. As far as their own business in Gazipur was concerned, it was contended that it was in the name of the predecessor of the respondent(s) and the premises of Gazipur were tenanted. The running of the film distribution business in the name of Chitra Lok Films was admitted. It was disputed that the need of the applicant is *bona fide* and it was pleaded that a lot of employees were dependent on the income from the Cinema which is being run in the suit premises.

7. The Prescribed Authority held that in the earlier round, *bona fide* requirement was found and the said finding was not disturbed throughout. It independently examined the *bona fide* need in the present application. The Prescribed Authority disbelieved the contention that the applicant Murlidhar Aggarwal was part of the joint family business with his father Radhey Shyam Aggarwal. The Prescribed Authority held that no proof was adduced by the respondent(s) to show that the Ajanta Talkies business was inherited by the applicants.

8. The Prescribed Authority found that the applicant was getting a salary of Rs. 1200/- from Ajanta Talkies business and Rs. 500/- per month from Radhey Shyam and Sons and this was the only source of income of applicant no. 1-Murlidhar Aggarwal.

9. The Prescribed Authority found that the respondent tenant could not dispute the *bona fide* need of the applicant. The Prescribed Authority further found that the applicant no.1-Murlidhar Aggarwal had only some casual income which came from some speculative business and the income was Rs. 11,142/- in 1975-76 and Rs. 9115/- in 1976-77 and the applicant had a loss of Rs. 10,118/- in 1974-75. It was concluded that the applicant no. 1-Murlidhar Aggarwal was possessing wealth in the negative. In the end, the Prescribed Authority recorded the following findings:-

> "In the present case the income of applicant No1 does not exceed more than Rs.ll,000/-. The applicant No 2 income does not exceed more than Rs. 10,000/-. They are hardly paying income Tax. The applicant No 2 has no other business to do. His only income is from the interest on deposits. They have wealth in minus. The opposite party stated in his written statement in para No 2 that the premises are purchased for doing profiteering. Applicant No1 is married have children to look after. The applicant are (sic) his demand for the release of the premises for

doing the Cinema business. The premises are not released. If applicant started to earn his bread himself and for his family by doing speculation and doing service elsewhere. It does not mean (sic) they have no *bona fide* need of premises. The applicant has to look for the avenues of income to support his family. It is not the requirement of law that applicant should sit idle till his premises are not released. The opposite party failed to establish that there is deceit in the need of the applicants. It appears that premises are honestly and in good faith required by landlord for carrying out his business as applicant No 2 is still out of business. There is felt need on the part of landlord for the release therefore; they are passing his claim from 1965. The element of deceit is absent.

Therefore, I reach at conclusion that the premises in dispute are *bona fide* required by the landlord. There is felt need on the part of landlord for carrying the business."

10. Thereafter, the aspect of comparative hardship was appreciated.

The Prescribed Authority recorded the following findings: -

"The three sons of the opposite party got the 2 proprietors (sic.) at Ghazipur by a Will which is paper No Annexure Paper No 27/A. the one property is Regal Talkies and other property is not disclosed. The opposite party inherited the ancestral property as only father of opposite party bequeathed the self acquired property of his 3 grand sons. Thus the sons of opposite party are well settled. The opposite party is man of substance and running several Cinema Houses and paying 7 lacks Tax to Government. He is man of 76 year and confined to bed as admitted in the Court. His all daughters are married. He is also running the business of film distribution.

I am putting on the weighing scale the need of both the parties to Judge the comparative hardship. On one hand the

> opposite party Ram Agya Singh is man of substance running several Cinema Houses in U.P doing also film distributing business. His all the three sons are well settled. He is owner No50/B/51/B and 36/A. He has no wordly liabilities to discharge on his shoulders. His all daughters are married. He is man of 76 years old and confined to bed. Fast approaching toward the point of eternal sleep fixed for every human being.
>
> The applicant No 1 is married and started to do service in Ajanta Talkies and *M/s* Radhey Shyam and sons on the monthly salary due to forced circumstances to maintain his family. He has no other business to do. His income hardly exceeds Rs. 1000/- per year. He started to do speculation business to look after his family which is no longer a good job. He has to discharge the wordly liabilities that are to perform the marriages of his daughter. He is man of 40 years age and have to long face the world. His sons are not settled and pursuing the studies.
>
> After giving the human touch to the whole affair it clear that balance is in favour of landlord applicant. The premises were leased out to opposite early for the period of 10 years in year'1952. He is enjoying the premises from last 31 years.
>
> I reach at conclusion on the basis of above findings that landlord will suffer more hardship if the premises in question not released in their favour."

So finding, the Prescribed Authority ordered the eviction of the respondent and further ordered the payment of Rs. 72,000/- as equivalent to rent of 5 years as compensation for goodwill and loss of business.

11. The respondent filed an appeal before the XIth Addl. District Judge Allahabad, challenging the order of the Prescribed Authority.

Arguments that were already rejected about the alleged multiple businesses of the appellant were once again canvassed.

12. The Appellate Authority discarded the finding of the Prescribed Authority insofar as it was held by the said Authority that *bona fide* need had already been found in the earlier round of litigation. Be that as it may, we will keep this aspect of the matter aside since we find that the Appellate Authority has not given convincing reasons for dislodging the independent findings arrived at in the present proceedings by the Prescribed Authority that the need for the appellant was *bona fide*. The only finding recorded in this regard by the Appellant Authority is as follows: -

> "I fully agree with the contention of the applicants that on the basis of the evidence the need of the respondents/ applicants for the disputed building is not *bona fide*. My above view gets this support from the fact of the applicants of the application. Appellant No. 1 has stated that he does not have any business and or his savings and money have been invested in the purchase of disputed building for cinema. This fact has not only been denied by the opposite party but it has also been proved by the evidence. Appellant has not denied this fact that the business in the name of M/s Radhey Shyam & Sons and M/s Murlidhar & Gynander Kumar and M/s Ajanta Talkies are not in his possession. The opposite party/appellant in this respect has clearly stated and has also proved by the evidence that 40%

> partnership of applicant No. 1 exists in M/s Radhey Shyam & Sons and applicant No. 2 was a student and unmarried person at the time of filing of application. Thus the applicants has admitted that his income is also from other sources which includes M/s Radhey Shyam and Sons, M/s Ajanta Talkies, M/s Murlidhar Gyanander Kumar and income tax is also being paid by him. The opposite party/appellant also produced important documents pertaining to income tax department on the file by which it becomes clear that admittedly respondent is having income from the business. Therefore, the case of the applicants that they are not having any business becomes completely (*sic)* proved untrue completely. In this respect the judgment passed by the Ld. Prescribed Authority is wholly against the facts. The Ld. Prescribed Authority has drawn this conclusion that the income of the applicants is not sufficient whereas the applicants have taken this stand that they do not have any business. In view of this the Prescribed authority in fact has found an additional new case as proved contrary to the stand taken by the applicants which is wholly against the facts available on the file."

13. We find that this finding is wholly unsustainable. The Prescribed Authority, after analyzing the documents, has concluded that the wealth of the applicant was in the negative and the income was also abysmally low and referred to the documentary evidence as extracted hereinabove. The only reason given by the Appellate Authority is that since the appellants took the stand that they have no other business and the finding of the Prescribed Authority was that the income is not sufficient, the Prescribed Authority has found a new

case wholly against the facts available on record. This finding is completely untenable. The Prescribed Authority found that while there was some income from speculative transactions which was sporadic, the only consistent income for applicant was his salary income and concluded that the wealth was in the negative as far as the applicants were concerned. There is no contradiction, much less has any new case been made out.

14. The other finding is about the fate of the Ajanta Talkies business after the death of Radhey Shyam Aggarwal, father of Murlidhar Aggarwal. The Prescribed Authority had found that the respondents had not established as to how the applicants have a stake in Ajanta Talkies. The Appellate Authority has recorded the following finding.

> "The finding of the lower court that the onus of proving the fact that the property of late Radhey Shyam was acquired by applicants in succession, is against the law and cannot be accepted. And such type of finding cannot be accepted and the findings made on this basis that the applicants are not the owners of Ajanta Talkies is against the facts."

15. Thereafter, the Appellate Authority dealt with the other businesses run by the tenant and recorded the following finding: -

"On the other hand the Ld. Counsel of the appellant disclosed about the above mentioned business according to which Regal Talkies was in the ownership of late Thakur Sehdev Singh wherein Late R.A. Singh is a tenant of Rs. 100/- per month after the death of Thakur Sehdev Singh as per paper No. 11 List 928 all sons of late Shri R.A. Singh got this building in succession and between the family members of opposite party in Suit No. 15 of 1972 by way of paper No. 19A Annexure 15 partition suit is pending in the Court. It has also been shown that Gazipur is the backward area and two other cinema halls Sahni Talkies and Subhadra Talkies are also opened which are in better condition and therefore the business of Regal Talkies is running in loss. In this respect documents were also made available on the file in which Regal Talkies running in loss is shown. Besides this it is also worth mentioning that the business of Mansarovar Cinema situated at Allahabad cannot be compared with the business of Regal Talkies Ghaziabad as clear by the comparative table of income brought on the file.

Likewise in respect of Chitra Talkies situated at Varanasi it has been proved that it was taken on rent and the contract has been expired and now this business is not being done by the opposite party. In the same manner it has been shown in respect of Chitralok films that no business was done by this company and now it is not in existence. Likewise in respect of income derived from agricultural land it can be said on the basis of available evidence that this is not such an income shows upon which full dependency can be attributed. Likewise on behalf of applicant it has been told about Allahabad Motor Garage that the same is also running in loss and it was submitted that Mansarovar Cinema is only the business of opposite party and his source of income and thus on the basis of available evidence the need of disputed building by the opposite party is real *bona fide* and urgent and the need of the applicants cannot be said to be *bona fide*."

16. What is clear is that there are several businesses which the family of respondents run. All that is mentioned is that partition suits are pending; that Gazipur is a backward area and that certain other businesses are either on loss or have since closed down. As far as agricultural income is concerned, it was concluded summarily that it was not such an income on which full dependency could be attributed. Thereafter, the Appellate Authority had found that the respondent could be put to greater hardship if eviction is ordered.

17. It is this finding which has been affirmed by the High Court.

18. Mr. Balbir Singh, learned Senior Counsel for the appellant contended that the Prescribed Authority having correctly arrived at the finding of *bona fide* need by independently analyzing the evidence in the case and there were no good grounds for the Appellate Authority to reverse the said finding. It was also brought to the notice that during the pendency of the proceeding in the High Court, Murlidhar Aggarwal died and his son Atul Kumar Aggarwal has filed an affidavit stating that he has no source of income and that he does not have any other business. Further it is averred that there is no

commercial property except this suit property and that Atul Kumar is crippled on account of the malfunctioning of the hip bone and is moving with a limp.

19. On the other hand, Mr. Anand Varma, learned Counsel for the respondents has reiterated the finding of the Appellate Authority. It is further contended that legal heirs cannot continue the litigation on the basis of the need of their father and ought to prefer a fresh application for release in accordance with law, setting up their own requirement for release of the premises in question. Learned counsel for the respondents contended that at no stage of the present proceedings have the legal heirs of the appellant set up their own need and requirement for the property in question. According to the learned Counsel, the legal heirs are already well settled and have no need for the property. According to the learned Counsel, Civil Appeal @ Special Leave Petition, which has been filed on the basis of the need of the appellant i.e. the original applicant, is thus not maintainable.

20. We have considered the submissions of learned Counsel for the parties and perused the records.

RELEVANT STATUTORY PROVISIONS: -

21. Section 21(1)(a) of the 1972 Act, along with the proviso is extracted hereinbelow: -

> "**21. Proceedings for release of building under occupation of tenant.** –
>
> (1) The prescribed Authority may, on an application of the landlord in that behalf, order the eviction of a tenant from the building under tenancy or any specified part thereof if it is satisfied that any of the following grounds exists namely-
>
> > (a) that the building is *bona fide* required either in its existing form or after demolition and new construction by the landlord for occupation by himself or any member of his family, or any person for whose benefit it is held by him, either for residential purposes or for purposes of any profession, trade or calling, or where the landlord is the trustee of a public charitable trust, for the objects of the trust;
>
> Provided that where the building was in the occupation of a tenant since before its purchase by the landlord, such purchase being made after the commencement of this Act, no application shall be entertained on the grounds, mentioned in clause (a), unless a period of three years has elapsed since the date of such purchase and the landlord has given a notice in that behalf to the tenant not less than six months before such application, and such notice may be given even before the expiration of the aforesaid period of three years:
>
> Provided further that if any application under clause (a) is made in respect of any building let out exclusively for non-residential purposes, the prescribed authority while making

the order of eviction shall, after considering all relevant facts of the case, award against the landlord to the tenant an amount not exceeding two years' rent as compensation and may, subject to rules, impose such other conditions as it thinks fit :

Provided also that no application under clause (a) shall be entertained-

(i) for the purposes of a charitable trust, the objects of which provide for determination in respect of its beneficiaries on the ground of religion, caste or place of birth;

(ii) in the case of any residential building, for occupation for business purposes;

(iii) in the case of any residential building, against any tenant who is a member of the armed forces of the Union and in whose favour the prescribed authority under the Indian Soldiers (Litigation) Act, 1925 (Act No. IV of 1925) has issued a certificate that he is serving under special conditions within the meaning of section 3 of that Act, or where he has died by enemy action while so serving, then against his heirs:

Provided also that the prescribed authority shall, except in cases provided for in the Explanation, take into account the likely hardship to the tenant from the grant of the application as against the likely hardship to the landlord from the refusal of the application and for that purpose shall have regard to such factors as may be prescribed.

Explanation-- In the case of a residential building :

(i) where the tenant or any member of his family who has been normally residing with or is wholly dependent on him has built or has otherwise acquired in a vacant state or has got vacated after acquisition a residential building in the same city, municipality, notified area or town area, no

objection by the tenant against an application under this sub-section shall be entertained;

Note-- For the purposes of this clause a person shall be deemed to have otherwise acquired a building, if he is occupying a public building for residential purposes as a tenant, allottee or licensee.

(ii) [***]

(iii) where the landlord of any building is –

(1) a serving or retired Indian Soldier as defined in the Indian Soldiers (Litigation), Act, 1925 (IV of 1925) and such building was let out at any time before his retirement; or

(2) a widow of such a soldier and such building was let out at any time before the retirement or death of her husband, whichever, occurred earlier;

and such landlord needs such building for occupation by himself or the members of his family for residential purposes, then his representation that he needs the building for residential purposes for himself or the members of his family shall be deemed sufficient for the purposes of clause (a), and where such landlord owns more than one building this provision shall apply in respect of one building only."

22. Rule 16(2) of The Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Rules, 1972 (hereinafter referred to as the "Rules of 1972") is set out hereinbelow: -

"16. Application for release on the ground of personal requirement.-

(2) While considering an application for release under clause (a) of sub-section (1) of Section 21 in respect of a

building let out for purposes of any business, the Prescribed Authority shall also have regard to such facts as the following-

(a) the greater the period since when the tenant opposite party, or the original tenant whose heir the opposite party is, has been carrying on his business in that building, the less the justification for allowing the application;

(b) where the tenant has available with him suitable accommodation to which he can shift his business without substantial loss there shall be greater justification for allowing the application;

(c) the greater the existing business of the landlords own, apart from the business proposed to be set up in the leased premises, the less the justification for allowing the application, and even if an application is allowed in such a case, the Prescribed Authority may on the application of the tenant impose the condition where the landlord has available with him other accommodation (whether subject to the Act or not) which is not suitable for his own proposed business but may serve the purpose of the tenant, that the landlord shall let out that accommodation to the tenant on a fair rent to be fixed by the Prescribed Authority;

(d) where a son or unmarried or widowed or divorced or judicially separated daughter or daughter of a male lineal descendant of the landlord has, after the building was originally let out, completed his or her technical education and is not employed in Government service, and wants to engage in self-employment, his or her need shall be given due consideration.

23. We must notice, at the outset, in this case that the *bona fide* need was found established by the Prescribed Authority by its judgment of 20.12.1983. Shri Murlidhar Aggarwal died during the pendency of the

proceedings in the High Court. We have carefully scanned the finding and we find that elaborate reasons have been adduced and cogent finding recorded. Whether we apply the *bona fide* need as on the date of the eviction petition or take into account the subsequent events, we find that the *bona fide* need of the appellant on the facts of the present case is made out on both scenarios.

24. Section 21(7) of the 1972 Act is an important provision which reads as under: -

> "**21. Proceedings for release of building under occupation of tenant** –
>
> (7). Where during the pendency of an application under clause (a) of sub-section (1), the landlord dies, his legal representatives shall be entitled to prosecute such application further on the basis of their own need in substitution of the need of the deceased."

ANALYSIS AND REASONS: -

25. It is well settled that the *bona fide* requirement for occupation of the landlord has to be liberally construed and, as such, even the requirement of the family members would be covered. [See ***Joginder Pal*** v. ***Naval Kishore Behal***, (2002) 5 SCC 397 and ***Dwarkaprasad*** v. ***Niranjan and Anr.***, (2003) 4 SCC 549]

26. In this case, we have Section 21(7) additionally to reinforce the position. In the absence of any denial to the facts that Atul Kumar, the son of Murlidhar Aggarwal is crippled and has no other source of income or any other business, the need of the appellant has been clearly established in this case. Hence, the objection to the maintainability of the special leave petition is rejected.

27. The repeated reference to the alleged existence of other businesses of the appellant does not carry the case of respondents any further. At the outset, the *bona fide* need of the appellant is clearly established. No doubt, Rule 16(2)(c) of the Rules of 1972 does mention that greater the existing business of the landlords own, the less the justification for allowing the application. It is also true that comparative hardship is to be appreciated under the proviso to Section 21(1)(a) of the 1972 Act. We have weighed the evidence on record and found that taking the case of the respondents at its highest, and even if we believe each and every averment of the respondents at best, the parties in financial terms could be said to be equally poised. The respondents who own several businesses have managed to cling on to the premises for the last 63 years, after the expiry of the 10-year lease.

28. In ***Mohd. Ayub and Anr.*** v. ***Mukesh Chand***, (2012) 2 SCC 155, this Court, by relying on ***Ganga Devi*** v. ***District Judge, Nainital and Ors.***, (2008) 7 SCC 770 and ***Bhagwan Dass*** v. ***Jiley Kaur (Smt) and Anr.***, 1991 Supp (2) SCC 300, held that one of the circumstances to be seen while appreciating the comparative hardship is to examine whether the tenant has brought on record any material to indicate that at any time during the pendency of the long drawn-out litigation, he made any attempt to seek an alternative accommodation and was unable to get it. This factor will be one of the circumstances to be taken into consideration while determining whether the claim of the landlord is *bona fide*. In this case, nothing is on record to show that the tenant who has been in the premises for a total of 73 years with 63 years of them after the expiry of the lease, has made any attempt to seek any alternative accommodation and nothing is brought on record to show that he was unable to get one.

29. In ***Sushila*** v. ***IInd Addl. District Judge, Banda and Ors.***, (2003) 2 SCC 28, interpreting Rule 16 of the Rules of 1972, it was held as under:-

"10. A bare perusal of Rule 16 of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Rules, 1972, makes it clear that the Rule only prescribes certain factors which have also to be taken into account while considering the application for eviction of a tenant on the ground of bona fide need. Sub-rule (2) of Rule 16 quoted earlier relates to the cases of eviction from an accommodation for business use. Clause (*a*) of sub-rule (2) provides, greater the period of tenancy less the justification for allowing the application; whereas according to clause (*b*) in case the tenant has a suitable accommodation available to him to shift his business, greater the justification to allow the application. Availability of another suitable accommodation to the tenant, waters down the weight attached to the longer period of tenancy as a factor to be considered as provided under clause (*a*) of sub-rule (2) of Rule 16. Yet another factor which may in some cases be relevant under clause (*c*) is where the existing business of the landlord is quite huge and extensive leaving aside the proposed business to be set up, there would be lesser justification to allow the application. The idea behind clause (*c*) is apparent i.e. where the landlord runs a huge business eviction may not be resorted to for expansion or diversification of the business by uprooting a tenant having a small business for a very long period of time. In such a situation if eviction is ordered it is definitely bound to cause greater hardship to the tenant.

11. In the case in hand we find that even though the period of tenancy of the respondent is no doubt long but availability of another shop to him where he can very well shift his business as found by the prescribed authority, neutralises the factor of length of tenancy in the accommodation in dispute. We further find that the landlady has no other shop where she can establish her son who is married and unemployed. **There is nothing on the record to indicate that the business of the father of Prem Prakash is so huge or that it is a very flourishing business so as to attract application of clause (*c*) of Rule 16(2)**. As observed earlier it is clear that the length of the period of tenancy as provided under clause (*a*) of sub-rule (2) of Rule 16 of the Rules, 1972 is only one of the factors to be taken into account in context with other facts and circumstances of the case. It cannot be a sole criterion or deciding factor to order or not the eviction of the tenant.

> Considering the facts in the light of Rule 16 pressed into service on behalf of the respondent, we find that according to the guidelines provided therein balance tilts in favour of the unemployed son of the landlady whose need is certainly bona fide and has also been so accepted by the respondent before us."

30. Applying the same, we find that in this case also nothing has been brought on record to show that the business of the appellant's family is so vast as to neutralize their *bona fide* claim to evict the respondents from the suit property.

31. In ***Nidhi*** v. ***Ram Kripal Sharma(D.) Thr. LRs***, (2017) 5 SCC 640, the landlady had moved away to a different town after marrying an officer of the Indian Revenue Service. Notwithstanding that the Court found her *bona fide* need had subsisted as she wanted the premise not just for herself but to accommodate her parents & grandparents like in the present case, the need for the family was found.

32. In ***Sheshambal (D.) Thr. LRs.*** v. ***Chelur Corporation Chelur Building and Ors.***, (2010) 3 SCC 470, where the landlady lost throughout from the Trial Court stage, this Court while confirming the eviction decree found that none of the married daughters had a *bona fide* need for the premises and that the death of the landlady on facts

of that case brought to an end the ground of personal requirement. The said case is wholly distinguishable from the facts that are established in the present case.

33. We finally bring the "curtains down" on this long drawn out litigation concerning the cinema hall. For the reasons stated above, the appeal is allowed and the judgment and order of the High Court dated 09.01.2013 in Writ-A No. 8508 of 1999 is set aside. The respondents are granted time till 31.12.2025 to vacate the premises and to deliver vacant and peaceful possession of the suit premises, subject to the respondents filing the usual undertaking and clearing all arrears, if any, of rent/use and occupation charges, within 4 weeks from today. No order as to costs.

.....J.
[**M. M. SUNDRESH**]

.....J.
[**K. V. VISWANATHAN**]

New Delhi;
24th April, 2025.