2022 INSC 1000

Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2022
(@ Special Leave Petition (C) No. 27679 of 2018)

Gopi @ Goverdhannath (d) by LRs. & Ors. …Appellants

Versus

Sri Ballabh Vyas …Respondent

J U D G M E N T

C.T. RAVIKUMAR, J.

1. Leave granted.

2. In this appeal by Special Leave the appellants assail the judgment and order dated 10.07.2018 in Civil Revision Petition No. 2752 of 2018 of the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh. It arises out of R.C. No. 262 of 2008 brought by the respondent herein under Section 10(2)(i), 10(2)(vi) and 10(3)(a) of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short "the Act"), for the eviction of

appellant Nos. 2 & 3 herein and the other respondents therein, who are all the successors-in-interest of the original tenant Shri Balraj, being his wife and children, from the petition schedule property. The petition schedule property is a Mulgi (small shop), admeasuring 29 square yards, abutting main road of Mangalhat, Hyderabad. They were sought to be evicted on three-fold grounds viz., non-payment/default in payment of rent, [(S.10(2)(i)], tenant's denial of the title of the landlord not being *bonafide* [(S.10(2)(vi)] and landlord's right to be put in the possession of property for his own business use [(S.10(3)(a)].

3. As per the order in R.C. No.262 of 2008 dated 07.11.2015, it was allowed and the respondents therein were directed to vacate the petition schedule property and to handover its vacant physical possession to the petitioner therein (the respondent herein) within 3 months from the date of the order. The unsuccessful respondents therein took up the matter before the Appellate Authority, viz., Court of Chief Judge, City Small Causes Court at Hyderabad, as Rent Appeal No.57 of 2016. The Appellate Authority considered the grounds

of attack and found them meritless and consequently, dismissed the appeal. It is aggrieved by the same that the stated Civil Revision Petition was filed before the High Court, which ultimately culminated in the impugned judgment.

4. As a matter of fact, pending the proceedings before the rent controller, the wife and two sons of Late Balraj, who were also arrayed as respondents along with the appellant Nos.2 and 3 herein, died. Later, during the pendency of the present SLP the original petitioner No.1, the other son of Late Balraj also died and subsequently, his legal heirs were brought on record as petitioner Nos. 1.1 and 1.2. The proforma respondents viz., respondents 2 to 4 were deleted from the array of parties, at the instance of the appellants, as per order dated 11.10.2015 passed in I.A. No. 147594 of 2018. Thus, the present proceedings are being pressed into and pursued by the original petitioner Nos. 2 & 3 and the other petitioner Nos.1.1 and 1.2, who are the legal heirs of original petitioner No.1, in the present SLP. Hence, hereinafter, in this

appeal they would be referred to as 'the appellants' and the petitioner in R.C. No.262 of 2008, who is the respondent in this appeal, would be referred to as 'the respondent', unless otherwise mentioned specifically.

5. Succinctly stated the case of the respondent (the petitioner in RC No. 262 of 2008) is as follows: -

The petition schedule property is a small shop (Mulgi) bearing Municipal D. No. 14-1-22 as described hereinbefore. One Smt. Phool Kumari was its owner. She was the original landlord and late Shri Bhandari Balraj (the predecessor-in-interest of the appellants) was the tenant, of the said shop. In the year 1985, the father of the respondent by name Vasudev Vyas purchased the petition schedule property from the aforesaid Smt. Phool Kumari in the name of the respondent Ballabh Vyas, then a minor aged 10 years, under Ex.P-3 registered sale deed dated 27.06.1985. The pre-existing tenancy created between late Sh. Balraj and the said original landlord was oral in nature and the rent initially fixed was enhanced from time to time. On 27.06.1985 itself Ext. P-1 rental deed was executed

between Late Sh. Balraj and the respondent, represented by his natural father and guardian Vasudev Vyas, on a monthly rent of Rs.300/-per month exclusive of municipal property tax and electricity charges. It was enhanced from time to time and finally fixed at Rs. 2,000/-. The original tenant Shri Balraj died on 15.05.1996 and thereafter the tenancy was being continued by his wife and children and the original respondent No.1 was paying rent initially. But, they failed to pay rent from May, 2006 to April, 2008. Prior to the filing of R.C. No.262 of 2008, the respondent issued Ex.P-4 legal notice dated 30.05.2008 requesting the tenants to pay the arrears of rent and to vacate and handover vacant possession of the petition schedule property. It was also stated therein that he is unemployed and requires the petition schedule property for running his own business. On its receipt, the respondents therein caused Ex. P-5 reply disputing the very title of the petitioner therein (respondent herein) over the petition schedule property. It is thereafter R.C. No. 262 of 2008 was filed.

6. Obviously, the stated R.C. was defended on a number of grounds by the respondents therein viz., appellant Nos. 2 & 3 herein and the predecessors-in-interest of the other appellants herein, inter alia, contending that they are the owners of the petition schedule property. As a matter of fact, they have not only denied the title of the respondent over it but also claimed its title contending that late Shri Balraj had purchased the petition schedule property as per a sale deed executed in the year 1985. The case put forth on their behalf before the rent controller was that one Phool Kumari was the original owner of the petition schedule property (Mulgi) and she had leased it out to Shri Balraj, he had been the tenant from 1960 to 1985 and then, Phool Kumari offered to sell it to him and late Shri Balraj purchased the same for a valid consideration in the year 1985.

7. The further contentions of the respondents in R.C. No. 262 of 2008 viz., the appellant Nos. 2 & 3 herein and the predecessors-in-interest of the other appellants were as follows: -

"That late Shri Balraj obtained Rs.15,000/- from Vasudev Vyas, the father of the respondent, as loan for paying sale consideration to Phool Kumari, that the father of the respondent put forth a condition for payment of loan and accordingly, on his insistence sale deed was registered in the name of the respondent as security, though late Shri Balraj had subsequently repaid the loan amount of Rs.15,000/- the father of the respondent had failed to return the petition schedule property to late Shri Balraj, and that in the year 2003 the said Mulgi was dismantled and it was renovated and therefore, in view of Section 32 (b) of the Act its provisions are inapplicable. Raising all such contentions the Rent Control Petition was sought to be dismissed. However, as noticed hereinbefore, the Rent Controller allowed R.C.No.262 of 2008. The appeal preferred before the Court of Chief Judge, City Small Causes Court at Hyderabad as Rent Appeal No.57/2016 was dismissed and the Revision filed against the same, viz., Civil Revision Petition No.2752 of 2018 was then, dismissed by the High Court as per the impugned judgment."

8. On 11.10.2018, this Court issued notice and ordered that the *status quo*, as on that date be maintained. As per the order dated 12.1.2022, it was ordered thus:

> *"Needless to mention that it will be open to the respondent landlord to urge of questions including the dis-entitlement of the heirs to claim any tenancy interest in the property in question."*

9. Heard Mr. Abhijit Basu, learned counsel for the appellants and also Mr. K. Parameshwar, learned counsel for the respondent. Virtually, the learned counsel for the parties reiterated the contentions raised before the Courts below with some additional points. We will refer to the rival contentions, a little later after looking into the real scope of consideration of the instant appeal.

10. There can be no doubt with respect to the scope of an appeal under Section 136 of the Constitution of India by special leave against the concurrent findings. In such matters, re-appreciation of evidence is not the normal rule and the power thereunder would be sparingly

exercised where the findings are absolutely perverse. A finding can be said to be perverse if it is founded on no evidence to support the same or totally against the weight of evidence. So also, it can be said to be perverse if material evidence was missed out for consideration or a totally irrelevant and immaterial aspect formed the foundation for such a finding.

11. A four-Judge Bench of this Court considered the scope of appeal under Section 136 of the Constitution by special leave, against the concurrent findings in ***Kurapati Venkata Mallayyaand Anr. v. Thondepu Ramaswami And Co. & Anr.***[1] In paragraph 9 herein it was held:

> *"9. The first point urged before us by Mr. Ranganadham Chetty on behalf of the appellant firm is that the High Court, as well as the Subordinate Judge were in error in holding that the bales in question had been purchased by the appellant firm from the respondent firm. This, however, is a question of fact and since the two courts below have found against the appellant firm on this point this Court would not ordinarily interfere with such a finding.*

[1] (AIR 1964 SC 818)

Mr. Ranganadham Chetty, however, contended on the authority of the decision in Bibhabati Devi V. Kumar Ramendra Narayan Roy that the practice of the court in appeals by special leave is not a cast iron one and that it would, therefore, be open to this Court to depart from it in an appropriate case. The aforesaid decision was referred to by this Court in Srinivas Ram Kumar V. Mahabir Prasad and it was pointed out that when the courts below have given concurrent findings on pure questions of fact, this Court would not ordinarily interfere with them and review the evidence for the third time unless there are exceptional circumstances justifying a departure from the normal practice."

12. We do not find any reason to make a further survey of the authorities on the said point as the same is the view which is being followed consistently.

13. Now, we will revert to the case on hand. A scanning of the rival pleadings would reveal the common contention of the parties. They would reveal that Smt. Phool Kumari was the original owner of the petition schedule property (Mulgi) and she had leased it out to

late Shri Balraj, the predecessor-in-interest of the appellants. It is also the admitted case of the appellants that Smt. Phool Kumari was the landlord and late Shri Balraj had been paying rent to her. The diversion in pleadings occurs thereafter. According to the respondent, his father Vasudev Vyas purchased the petition schedule property from Smt. Phool Kumari as per Ext.P3 registered sale deed dated 27.6.1985 in his name when he was a minor aged 10 years and according to the appellants Shri Balraj, their predecessor-in-interest purchased it from Smt. Phool Kumari for a valid consideration of Rs.15,000/-, in the year 1985.

14. Evidently, the respondents in R.C. No. 262 of 2008 viz., appellants 2 and 3 and the predecessors-in-interest of the other appellants not only denied the title of the respondent but also claimed the title over the petition schedule property (Mulgi) contending that the same was purchased from Smt. Phool Kumari by late Shri Balraj, their predecessor-in-interest in the year 1985 for a valid consideration. Late Shri Balraj obtained Rs. 15,000/- from the father of the petitioner

therein (the respondent in this appeal) for effecting payment to Smt. Phool Kumari and only on the demand of the petitioner's father, the sale deed in respect of the petition schedule property was got registered by Shri Balraj in the name of the petitioner therein (respondent in this appeal) as a security.

15. Based on the rival pleadings the Rent Controller framed the following points for consideration: -

1. *Whether the respondents malafidely denying the title of the petitioner?*
2. *Whether this Court lacks inherent jurisdiction?*
3. *Whether there is jural relationship?*
4. *Whether the respondents are liable for eviction from the petition schedule property?*
5. *To what relief?*

16. Obviously, all the points were decided in favour of the petitioner therein (the respondent herein) and accordingly, the R.C. No.262 of 2008 was allowed. Consequently, the respondents therein were directed to vacate the petition schedule property and handover its

vacant physical possession to the petitioner therein (the respondent herein) within three months from the date of the order. It is this order which was confirmed concurrently by the Appellate Authority and the High Court.

17. We have carefully scanned the order of the Rent Controller and the judgments of the Appellate Authority as also the High Court. The question is what is the perversity that invites interference with the concurrent findings. Since notice and *status quo* ordered by this Court as per order dated 11.10.2018 was followed by the order dated 12.01.2022 we will consider that question in detail.

18. We have already referred to the pleadings of the parties taken up before the Rent Controller. When the petitioner (the respondent herein), as landlord, claimed eviction on the ground of tenants' denial of his title over the petition schedule property and to establish such denial as not being *bonafide* produced its registered sale deed, whether the appellants and their predecessors—in-interest could justify the

denial merely by asserting that Shri Balraj, their predecessor-in-interest, had purchased it for a valid consideration of Rs.15,000/- in the year 1985, without producing any supporting material(s) admissible in evidence? Certainly, the answer can only be in the negative. This is because in respect of the sale of an immovable property, worth value which makes the sale deed compulsorily registrable, the genuineness of the denial of title cannot be decided based on presumptions and oral assertations ignoring a valid registered document. In the aforesaid context, it is only worthwhile to refer to the decision of the Bombay High Court in ***Mohanlal Sohanlal v. Pannalal Jankidas***[2] and also Sections 9 and 54 of the Transfer of Property Act, 1882 (hereinafter for short, 'the TP Act') and Section 17 of the Indian Registration Act, 1908. In paragraph 17 of the decision in ***Mohanlal Sohanlal***[2] it was held:

> "*In my opinion this is a case in which what was said by Lord Simonds in delivering the judgment of the Judicial Committee in 49 Bom. L.R. 244 applies with equal force (P.245):*

[2] AIR 1948 Bom 133

Upon this apparently simple question oral evidence voluminous and bewildering has been given and their Lordships find themselves in agreement with Chagla J. who in the Appeal Court said: 'In a case where oral testimony is of such an unreliable and untrustworthy character, the safest policy would be to let the documents speak for themselves.' This does not mean that, when the question whether a transaction is a sale or a mortgage, form is to be preferred to substance. It is an inviolable rule that upon such a question the Court must find the substance behind the form. But where the oral evidence is unreliable and contradictory the Court cannot safely depart from the smitten evidence of the document."

19. Section 9 of the TP Act states that a transfer of property can be made without writing in every case in which a writing is not expressly required by law. But then, as per Section 54 of the TP Act, sale of immovable property of a value of Rupees one hundred and upwards can be made only under a registered instrument. Section 17 of the Indian Registration Act, 1908 speaks of documents of which registration is compulsory. As per Clause (b) of sub-Section (1) thereof non-

testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property, shall be compulsorily registered. In the decision in ***Lachhman Dass v. Ram Lal & Anr.***[3] it was held that the real purpose of the said Section is to secure that every person dealing with the property, where such documents require registration, may rely with confidence upon statements contained in the register as a full and complete account of all transactions by which title may be affected.

20. In this case the oral evidence adduced by the respondent is to the effect that his father had purchased the petition schedule property from Smt. Phool Kumari under Ext. P3, registered sale deed dated 27.06.1985, in his name when he was aged 10 years. *Per contra*, on behalf of the appellants what is pleaded and argued is that the petition schedule property was purchased by their predecessors-in-interest, Shri

[3] (1989) 3 SCC 99

Balraj from the very same vendor viz., Smt. Phool Kumari in the year 1985, for a valid consideration of Rs. 15,000/-. It is in this context that Ext. P3 would act as a sure and clear pointer to where the truth lies.

21. Evidently, the respondent herein (the petitioner in R.C. No. 262 of 2008) brought on record Ext. P3, a registered sale deed executed in his favour in respect of the petition schedule property. While considering the question of evidence produced on behalf of the appellants herein in the said proceedings it is relevant to refer to the following recital from the order of the Rent Controller:

"On careful perusal of the entire record, this Tribunal could not find any document to show the title of the respondent over the petition schedule property. As such this Court has to infer that without any valid document, the respondents are denying the ownership of the petitioner in spite of that petitioner exhibited Ext.P3 in his favour." Obviously in the above extracted recital the reference 'the respondents' was with respect to the appellants 2 and 3 and the predecessors-

in-interest of the other appellants in this appeal and the reference "the petitioner" was with reference to the respondent herein.

22. What is the evidence adduced by the respondents in R.C. No.262 of 2008 to deny the title of the petitioner therein (the respondent)? Juxtaposed with Ext. P3 sale deed, whether the oral assertation of appellants 2 and 3 and the predecessors-in-interest of appellants 1.1 and 1.2 would be sufficient to outweigh Ext. P3 in the matter of consideration of their *bonafides* behind denial of the title of the respondent? The indisputable and undisputed fact is that except the oral assertation of purchase of the petition schedule property by Shri Balraj not even a scrap of paper to support the same was produced on behalf of the appellants, either before the Rent Controller or before the Appellate Authority. In this context, it is relevant to refer to the oral testimony of late Bhandari Goverdhan Nath, who was the first respondent in R.C. No.262 of 2008 and the original first petitioner in the SLP from which this appeal arises. During his cross-examination as RW1 he would depose that there was no registered sale deed in

favour of his father as relating to the petition schedule property. Taking note of the amount of 'consideration' of the alleged sale, it is evident that transfer/conveyance of the said immovable property could have been effected legally and lawfully only through a registered deed of conveyance. Thus, the indisputable position obtained in this case is that the respondent herein/the petitioner therein, had adduced documentary evidence of outright purchase of the petition schedule property under Ext. P3 registered sale deed. On the other hand, on behalf of the respondents therein no admissible evidence to outweigh the same to establish their *bonafides* in the denial of title of the respondent herein, was adduced. It is a fact that the predecessors-in-interest of the appellants herein filed O.S.No.1210 of 2008 before the Court of Senior Civil Judge, Hyderabad and the said fact and also the factum of its dismissal as per Ext.R3 was brought out in evidence by RW1 as well, while being in his examination-in-chief. In fact, the petitioner therein/respondent herein has brought on record the judgment in O.S. No.1210 of 2008, which document was

brought on the side of the appellants also as Ext.R3, and the decree passed thereon as Exts.P7 and P8. Obviously, RW1 then deposed that as against Ext.R3 an appeal was preferred as A.S. No.123 of 2014 and it is pending on the files of the Court of Additional Chief Judge, City Civil Court, Hyderabad. It is not inappropriate to state at this juncture that now in the written submission filed on behalf of the appellants it is stated that the said appeal was also dismissed subsequently and in the second Appeal filed against it notice before admission was ordered. The institution and dismissal of the said original suit brought out in evidence was considered by the Rent Controller Court only to answer the point as to whether the respondent was *malafidely* denying the title of the respondent herein/the petitioner therein. After such consideration based on the oral and documentary evidence before it, the Rent Controller came to the conclusion that the respondents therein were denying the title of the respondent herein *malafidely*.

23. All these aspects were given due consideration by the Appellate Authority as also by the High Court while

considering the case of the appellants herein in their respective jurisdiction. It is to be noted that even before this Court the appellants got no case that their predecessor-in-interest Shri Balraj purchased the petition schedule property from Smt. Phool Kumari as per a registered sale deed. In the light of the indisputable position thus obtained and in view of Ext.P3, which is a registered sale deed executed in favour of the respondent herein/the petitioner therein by none other than Smt. Phool Kumari on 27.6.1985, the denial of the title of the respondent herein over the petition schedule property by the respondents in R.C. No.262 of 2008 and now, by the appellants herein can only be taken as one sans *bonafide*. In other words, it is *malafide*.

Curiously, the respondents in R.C. No.262 of 2008 had also canvassed the position that 'the Act' is not applicable by virtue of the provision under Section 32 (b) thereof, before the stated proceedings. It was so raised contending that the petition schedule property (Mulgi) was dismantled and in its place a new building was constructed. A careful scanning of the judgment of

the Rent Control Court, the Appellate Authority and the High Court would reveal that the tenability of the said contention was carefully considered and rejected.

24. It is to be noted that the Rent Controller observed that no evidence to establish the factum of dismantling of the petition schedule property was produced and proved before it. That apart, the Appellate Authority observed that no document revealing obtainment of necessary permission for demolition and construction of the petition schedule property was brought on evidence on behalf of the appellants. Obviously, the appellants took up a contention that the petition schedule property being a very small shop does not require any such permission. At the same time, the fact is that they had not brought out any provision under any law in support of the said contention. Explanation 1 to Section 32 (b) of the Act would reveal that in order to hold that a building was substantially renovated not less than 75 per cent of the premises was to be built new in accordance with the criteria prescribed for determining the extent of renovation. No evidence to establish such requirement is available

on record. According to us, the hollowness of the said contention would be revealed if a reference is made to the definition of the term "building" given under Section 2 of the Act, which is an inclusive definition. Going by its definition it takes in its fold any house or hut or part of a house or hut. For the purposes of the Act when a hut or even part of a hut falls within the definition of building, in the absence of any provision under any law supporting the said contention of the appellants that the petition schedule property being a small shop will not attract the provisions of the Act, is only to be rejected. In fact, it was rightly rejected by the Courts below.

25. Obviously, upon perusing Ext. R3 (Ext. P7) judgment the Appellate Authority has also found that on the side of the appellants herein adverse possession was also raised in O.S. No.1210 of 2008 to establish the claim of title. Consequently, the Appellate Authority made an observation that the claim of the title based on the sale deed and a contention based on adverse possession could not co-exist, evidently, for the purpose of considering the question whether the denial of title

of the respondent herein was made *malafidely*. In this context it is worthy to refer to a three-Judge Bench decision of this Court in ***Narasamma & Ors. v. A. Krishnappa (Dead) Thr. LRs***.[4] In the said decision it is held that independent claim of title and adverse possession simultaneously in respect of the same property on the same date would amount to taking contradictory pleas. It is also held therein that when a plea of adverse possession is projected it is inherent in the nature of it that someone else is the owner of the property and therefore the plea on the title and adverse possession are mutually inconsistent and the latter can begin to operate only when the former is renounced. When once it is found that a plea of adverse possession in its inherent nature projects that someone, other than who took up the said contention is the owner of the property concerned; when it is indisputable that the case of the appellants and their predecessors-in-interest is that their predecessor-in-interest late Sh. Balraj had purchased the petition schedule property as per a registered deed in the year

[4] (2020) 15 SCC 218

1985 and when it is proved before the rent controller that the said property was purchased in the name of the petitioner therein viz., the respondent herein, then aged only 10 years, by his father as per Ext. P3 registered sale deed dated 27.06.1985 we cannot find fault with the Appellate Authority in taking into account the factum of raising the plea of adverse possession by the appellants and/or their predecessors-in-interest in O.S. No. 1210 of 2008 for the limited purpose of looking into the question of *malafides* in the denial of title of the respondent herein over the petition schedule property. Indeed, it was so noted to support and sustain the finding of the rent controller that the respondents in R.C. No.262 of 2008 were denying the title of the respondent without *bonafides*.

26. A reference to Section 101 of the Indian Evidence Act will not be inapposite in the context of the aforesaid contentions. Though, on behalf of the appellants herein a consistent case, raised to resist the case of the respondent herein based on Ext. P3 registered sale deed, is that late Shri Balraj

purchased the petition schedule property in the year 1985 for a valid consideration of Rs.15,000/-, no documentary evidence was produced before the Rent Control Court, before the Appellate Court or even before the High Court. It is to be noted that no such document is produced even before this Court. Thus, it is obvious that despite asserting a specific fact that Shri Balraj had purchased the property as per sale deed in the year 1985 the appellants and their predecessors had failed to prove the same, though, in the light of Section 101 of the Evidence Act, the burden was upon them. The burden of proof is of importance where by reason of not discharging the burden which was put upon him, a party must eventually fail. (See the decision in ***C. Abdul Shukoor v. Arji Papa Rao***[5]).

The long and short of all aforesaid discussions is that the concurrent findings of the courts below on the issue that the title of the respondent was *malafidely* denied by the appellants is the rightful conclusion on appreciation of the facts and evidence obtained in this

[5] AIR 1963 SC 1150

case and is not infected with perversity. It calls for no interference.

27. In the light of the finding on the issue whether the respondents in R.C. No.262 of 2008 were *malafidely* denying the title of the petitioner therein over the petition schedule property, Section 109 of the Transfer of Property Act would assume relevance in regard to the right of the petitioner in R.C. No.262 of 2008 to seek eviction of the respondents therein, from the petition schedule property. Admittedly, the predecessor-in-interest of the appellants viz., late Shri Balraj, was the tenant in respect of the petition schedule property under its original owner Smt. Phool Kumari. A bare perusal of Section 109 of the Transfer of Property Act would reveal that if a landlord transfers the property leased out or any part of it, the transferee, in the absence of any contract to the contrary, shall possess all the rights of the landlord. Hence, the impact of Ext.P3, in the absence of any contract to the contrary, is that the respondent herein has stepped into the shoes of Smt. Phool Kumari. In terms of Section 109 of the Transfer of Property Act it is clear that

attornment by the lessee is not necessary for the transfer of the property leased out to him. Thus, the inevitable consequence of transfer of a leased-out property by the landlord in accordance with law to a third party, in the absence of a contract to the contrary, is that the third party concerned would not only become its owner having title but also would step into the shoes of the vendor as the landlord in relation to the lease holder at the relevant point of time. In such circumstances, the findings of the courts below that there exists jural relationship of landlord and tenant between the respondent and the appellants can only be held as the correct and lawful conclusion in the light of the evidence on record based on the legal position.

28. Now, we will move on to consider the next question as to whether the direction for eviction of the appellants from the petition schedule property calls for interference on the ground of perversity in finding. The Rent Controller, the Appellate Authority and the High Court considered the question whether the requirement of the respondent to get vacant possession

of the petition schedule property is *bonafide* and acceptable as a ground for eviction. The pleadings and the evidence of the respondent herein as PW-1 is to the effect that he is unemployed and requires the petition schedule property for establishing his own business to eke out his livelihood. Though, the respondent herein was cross-examined nothing could be elicited to establish that his requirement for personal occupation for the aforesaid purpose is not genuine and that it is only a ruse for evicting the appellants. So also, nothing could be elicited to establish that the respondent possesses other vacant premises of his own to establish his business. RW1, who was the original first petitioner in the SLP from which this appeal arises, while being examined-in-chief in R.C. No. 262 of 2008 would say that he did not file any document to show that the petitioner therein viz., the respondent herein got other non-residential building(s) or mulgies in Feelkhana. Nothing was brought to our attention that would establish non-consideration of any material or consideration of irrelevant material, to arrive at the finding that the requirement to get vacant

possession of the petition schedule property of the respondent is *malafide*. In short, on a careful scanning of the concurrent findings on all issues, as above, we find no reason to hold that such findings are infected with perversity or manifest injustice. In the said case, this appeal must fail. Accordingly, it is dismissed. No order as to costs.

29. Though, the appellants, by virtue of their denial of title of the respondent do not really deserve grant of time to vacate the petition schedule property, we are inclined to grant two months' time from the date of the judgment to the appellants to handover vacant possession of the petition schedule property to the respondent, in the interest of justice. To get the benefit of the extended time thus granted, the appellants shall file the usual undertaking before this court within a period of two weeks that they would give vacant possession of the petition schedule property without any demur to the respondent and also that they would pay Rs. 3000/- to as monthly rent during the extended period of two months.

30. The appeal stands dismissed subject to the above.

All pending applications are disposed of.

.....,J.
(Indira Banerjee)

.....,J.
(C.T. RAVIKUMAR)

NEW DELHI;
September 22, 2022