



REAL ESTATE

Landlord's Bona Fide Need Prevails: Supreme Court Reins in Bombay HC's Unwarranted Re-Appreciation of Evidence

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The Supreme Court of India, delivered a pointed reminder that the supervisory jurisdiction conferred upon High Courts by Article 227 of the Constitution is not a clandestine corridor for re-hearing appeals. In *Rajani Manohar Kuntha & Anr. v. Parshuram Chunilal Kanojiya & Ors.*, a bench of Justice J. K. Maheshwari and Justice Vijay Bishnoi set aside a Bombay High Court judgment that had upset concurrent decrees of eviction, emphasising that microscopic re-evaluation of evidence is alien to revisional powers.

The protagonists were the landlord-plaintiff Rajani Manohar Kuntha and her family, who sought possession of the non-residential premises for the commercial enterprise of their daughter-in-law, and the respondent tenants who had remained in occupation for nearly half a century. The suit was instituted in 2016; the Trial Court found the need bona fide and decreed eviction. The First Appellate Court reaffirmed that conclusion after an independent appreciation of pleadings and oral evidence. Undeterred, the tenants invoked the High Court's revisional jurisdiction; the High Court, in an impugned order dated 4 October 2024, undertook an exhaustive re-examination of documents, ultimately holding that the landlord's case was insufficiently proved and that the offer of alternative accommodation tendered by the tenants had not received adequate consideration. The landlords thereupon petitioned the Supreme Court by special leave, assailing the revisional adventure as an impermissible appellate rehearing.

Before the Supreme Court, the landlords contended that two coordinate courts had concurrently recorded that the daughter-in-law required the ground floor for a genuine commercial venture, a factual conclusion that could be disturbed only if it suffered from perversity or jurisdictional absence, none of which was pleaded or established. They emphasised that the premises carried an undeniable commercial character, situated as they were on the ground floor in a crowded business locality, and that the subsequent procurement of a commercial electricity meter during the suit's pendency was irrelevant to the pre-existing nature of the property. Relying on *Bhupinder Singh Bawa v. Asha Devi*, (2016) 10 SCC 209, they submitted that a tenant is not entitled to foist upon a landlord the suitability of another premises so as to nullify an otherwise established personal need.

The tenants, in reply, defended the High Court's intrusive scrutiny by arguing that revisional courts are duty-bound to secure substantial justice and that the offer of alternative premises was a relevant circumstance which the lower courts had glossed over. They urged that the premises were essentially residential and that the landlord's belated attempt to portray them as commercial, evidenced by the fresh electricity connection, exposed the lack of bona fides. In short, they invited the Supreme Court to endorse an expansive conception of Article 227 that countenances a fresh look at evidence whenever justice appears to demand it.

The Supreme Court declined the invitation. It recalled that the constitutional power of revision is supervisory, not appellate; its activation is reserved for cases where the inferior forum's order is *ex facie* without jurisdiction or suffers from a glaring defect of law or procedure. The Court observed that both courts below had applied their minds to the pleadings, examined witnesses, inspected documents and arrived at a concurrent finding that the need was genuine. To overturn that consensus, the High Court had travelled deep into evidentiary terrain an exercise alien to Article 227 and amounting to an unauthorised re-trial. The Bench approved the principle laid down in *Bhupinder Singh Bawa* that a defendant cannot compel a landlord to accept alternative accommodation of the tenant's choosing, and held that the mere fact that a commercial electricity connection was obtained after the institution of the suit could not dilute the landlord's requirement, particularly when the premises were structurally and situationally suited for trade.

Consequently, the appeal was allowed and the judgments of the Trial Court as well as the First Appellate Court were restored, effectively reviving the eviction decree. Recognising, however, that the respondents had occupied the premises for five decades and that abrupt displacement could entail hardship, the Court granted an extended breathing period. The tenants were afforded time until 30 June 2026 to hand over peaceful vacant possession, subject to clearing arrears within one month and continuing monthly rent thereafter. They were directed to file the usual undertaking before the Registrar of the Bombay High Court within three weeks, with a warning that any infraction would entitle the landlord to execute the decree without being fettered by the indulgence extended.

The decision re-iterates a basic but often forgotten canon: revisional courts guard the perimeter of jurisdiction, they do not sit as appellate tribunals over findings of fact. By restoring the primacy of concurrent adjudications and circumscribing the urge to re-litigate evidence, the Supreme Court has reinforced predictability for landlords who establish bona fide need and has imparted a salutary check against the temptation to convert constitutional supervision into clandestine appeals. At the same time, the pragmatic timeline for vacation, coupled with stringent conditions, demonstrates the Court's willingness to balance equitable considerations even while vindicating substantive rights.

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