

IN THE SUPREME COURT OF INDIA**CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. OF 2025
(Arising out of SLP (C) No. 30407 of 2024)

RAJANI MANOHAR KUNTHA & ORS.**... APPELLANTS****VERSUS****PARSHURAM CHUNILAL KANOJIYA & ORS.****... RESPONDENTS****O R D E R**

1. Leave granted.

2. In a suit seeking eviction of a non-residential accommodation known as No.4 situated on plot of land bearing CTS No. 425, 12th Lane, Kamathipura, Nagpada, Mumbai filed by the plaintiff for the need of his daughter-in-law decreed by the Trial Court and the First Appellate Court, which was set aside in exercise of revisional jurisdiction of the High Court by the impugned judgment, hence the landlord came in appeal.

3. After hearing learned counsel for the parties at length, it appears that the High Court while reversing

the findings concurrently recorded by two courts proving need of the plaintiff's daughter-in-law was *bona fide* went to the microscopic scrutiny of the pleadings and the evidence and reversed in revisional jurisdiction. In our view, such scrutiny in exercise of revisional jurisdiction is not permitted until the jurisdiction as exercised by the two courts concurrently is *ex facie* without authority which is not a case herein.

4. Now, reverting to the need for the suit premises as rightly discussed by the Trial Court and the First Appellate Court, it is apparent that the plaintiff sought commercial premises situated at the ground floor occupied by the defendant. The pleadings and evidence had been taken note, whereby need of the premises situated at the ground floor was found *bona fide* as a commercial premises. The other premises situated at second and third floor are residential. So far as one room situated at the ground floor, it was pleaded by the plaintiff that it is residential though commercial connection has been taken after filing of the suit in 2016, however, this itself cannot be a ground to nullify the requirement in exercise

of revisional jurisdiction. In addition, the defendant proposing alternative accommodation cannot dictate the plaintiff-landlord to accept the suitability of the accommodation and to nullify the need by having other premises which was allegedly said to be residential and for her use a commercial electric connection was taken during the pendency of present eviction proceedings.

5. In our view, this would not nullify the bona fide need of the daughter in law of the plaintiff. In addition, as per the judgment of this Court in the case of ***Bhupinder Singh Bawa vs. Asha Devi*** reported in (2016) 10 SCC 209, the defendant cannot dictate the plaintiff-landlord regarding suitability of the accommodation and to start the business therein.

6. In this view of the matter, in our considered opinion, microscopic scrutiny as done by the High court in revisional exercise is *ex facie* without jurisdiction and warrants interference in this appeal and deserves to be set aside. Accordingly, the appeal is allowed. The impugned judgment passed by the High Court is set aside

and the judgments of the Trial Court and the First Appellate Court are restored.

7. At this stage, learned counsel for the respondents prays for time to vacate the suit premises occupied since last half century. After consideration the facts and situation as brought before, we grant time up to 30.06.2026 to vacate the suit property subject to payment of arrears of rent within one month and regular rent on month-to-month basis. It is directed that the respondents shall hand over the peaceful vacant possession of the premises to the appellants on or before 30.06.2026 and shall not part with or create any third party right therein. A usual undertaking shall be filed within a period of three weeks from today before the Registrar, High Court of Bombay. Non-filing of the undertaking or violation of any of the above conditions shall give a cause to the landlord to execute the decree and the time for vacation as specified above shall not have any bearing to the execution proceedings. Defiance of the above terms, if any, may be treated as non-compliance of the order of this Court.

8. Pending applications, if any, shall stand disposed of.

....., J.
[J.K. MAHESHWARI]

....., J.
[VIJAY BISHNOI]

New Delhi;
December 02, 2025.

ITEM NO.9

COURT NO.3

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 30407/2024

[Arising out of impugned final judgment and order dated 04-10-2024 in CRA No. 238/2021 passed by the High Court of Judicature at Bombay]

RAJANI MANOHAR KUNTHA & ORS.

Petitioner(s)

VERSUS

PARSHURAM CHUNILAL KANOJIYA & ORS.

Respondent(s)

Date : 02-12-2025 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE VIJAY BISHNOI

For Petitioner(s) :Mr. Sandeep Sudhakar Deshmukh, AOR
Mr. Nishant Sharma, Adv.
Mr. Ankur Savadikar, Adv.
Mr. Mayur Saavarkar, Adv.

For Respondent(s) :Mr. Sudhanshu Chaudhary, Sr. Adv.
Ms. Ranu Purohit, AOR
Mr. Pranjal Enapalgaonkar, Adv.
Ms. Niharika Singh, Adv.
Mr. Yashas Rk, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The appeal is allowed in terms of the signed order.
3. Pending applications, if any, shall stand disposed of.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(NAND KISHOR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)