GAHC010010072012

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP/536/2012

REKHA AGARWALA and 2 ORS.
W/O LATE BINOD KUMAR AGARWAL, BHAJANKA RICE MILL COMPLEX, CHRISTIAN BASTI, GHY-5, P.S. DISPUR, DIST- KAMRUPM, ASSAM

2: MISS DAMINI BHAJANKA
D/O LATE BINOD KUMAR AGARWALA

3: NISHANT BHAJANKA
S/O LT. BINOD KUMAR AGARWALA
SL. NO.2 and 3 ARE BOTH MINORS
REPRESENTED BY THE APPELLANT NO.1 BEING THE MOTHER
NATURAL GUARDIAN AND NEXT FRIEND
R/O BHAJANKA RICE MILL COMPLEX
CHRISTIAN BASTI
GHY-5
P.S. DISPUR
DIST- KAMRUPM
ASSA

VERSUS

ANUROMA DAS and ANR
W/O SRI DALIM DAS, NAYANPUR, GANESHGURI, GUWAHATI, C/O. M/S HI-TECH AIRCONDITIONING CORPORATION, CHRISTIAN BASTI, G.S. ROAD, GHY-5

2:SABITA DEVI GINORIA
W/O SRI KAILASH AGARWAL GINORIA
C/O M/S. HI-TECH. AIRCONDITIONING CORPORATION
CHRISTIAN BASTI
G.S. ROAD
GHY-

Advocate for the Petitioner : MS.A CHOUDHURY

Advocate for the Respondent : MR.S BARUAH

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

Date of hearing : 21.09.2023
Date of judgment : 04.10.2023

JUDGMENT & ORDER

The revisional jurisdiction of this Court has been sought to be invoked by filing this petition under Section 115 of the Code of Civil Procedure by which, the petitioners have put to challenge a judgment dated 22.08.2012 passed by the learned Civil Judge, No. 2, Kamrup, Guwahati in Title Appeal No. 92/2010. By the aforesaid judgment, the appeal preferred by the petitioners, as appellants against the judgment and decree dated 30.06.2010 passed by the learned Munsiff No.3, Kamrup, Guwahati in TS Case No. 659/2006, which was earlier numbered as TS No. 193/2005 has been dismissed and the judgment of the learned Trial Court has been affirmed.

2. The petitioners were the plaintiffs in the suit which was instituted for ejectment of tenant and recovery of arrear rent. While the petitioners were the landlords, the two defendants in the suit who were the tenants. At this stage itself, it is required to be noted that the respondent no. 2 has not contested the case and in this regard, this Court had passed an order dated 25.04.2013 to proceed *ex-parte* against the said respondent no. 2 .

3. It is the case of the petitioners that since July 2004, no rent was paid or

even tendered to them. The ground of *bona fide* requirement was also taken. On the other hand, the defence of the respondents was that rent was paid and since receipt was not given, it was again deposited in the Court. To prove the case of the plaintiffs, evidence was adduced through two numbers of PWs. The defendants had also adduced evidence through two numbers of DWs.

4. The learned Munsiff No. 3, Kamrup vide the judgment and decree dated 30.08.2010 had dismissed the suit. As mentioned above, the first Appellate Court had also affirmed the aforesaid judgment of dismissal of the suit.

5. I have heard Shri N. Alam, learned counsel for the petitioners. I have also heard Shri A.C. Sharma, learned Senior Counsel assisted by Shri S.S. Baruah, learned counsel for the contesting respondent. The materials placed before this Court, including the LCR have been carefully examined.

6. Shri Alam, the learned counsel for the petitioners, by referring to the plaint, more specifically, the pleadings in paragraph 4 has submitted that it was clearly pleaded that no rent from the month of July, 2004 was paid till date. The aforesaid pleadings were supported by the evidence of the PW-1 who, in paragraph 5 of the examination-in-chief had clearly stated that rent was not paid from the month of July, 2004. The learned counsel for the petitioners has submitted that the aforesaid version of the PW-1 could not be shaken in the cross-examination.

7. With regard to the issue no. 4 pertaining to *bona fide* requirement, the learned counsel has submitted that the entire approach of the Trial Court as well as the First Appellate Court was not in accordance with law. He has submitted that both the Courts below had proceeded with the presumption that the

plaintiff was required to show that she had initiated the process for which the premises in question is necessary. He has further brought to the notice of this Court that the learned Trial Court took into consideration that there were other rooms and open space and therefore it was held that the ground of *bona fide* requirement was not substantiated.

8. By referring to the judgment of the Appellate Court, Shri Alam, the learned counsel by referring to Section 5 (4) of the Assam Urban Areas Rent Control Act (hereinafter the Act) submits that mere deposit of rent in the Court would not be sufficient and there is a requirement to exhibit the NJ cases as it is only from the records of the NJ cases it can be ascertained whether the provisions of Section 5 (4) of the Act have been fulfilled. He submits that the aforesaid provision is mandatory in nature.

9. With regard to the defence of payment of rent in the Court, Shri Alam, the learned counsel has submitted that the contesting respondent had filed the written statement in September, 2005 and there is no pleading regarding payment of rent in the Court. He points out that till the date of filing of the written statement, almost 14 months have passed and yet no statement was made.

10. By referring to the IA(C)/2796/2017, Shri Alam, the learned counsel has also brought to the notice of this Court certain subsequent development. He submits that the Credit Certificate has been obtained from the Treasury from which it would appear that even during the pendency of this case, the respondents defendants had defaulted in payment of rent. It is submitted that the settled principle of law is that default made at any stage by a tenant would make him a defaulter for which proceeding for ejectment can be initiated.

11. In support of his submissions, Shri Alam, the learned counsel for the petitioners has placed reliance upon the following case laws.

i. ***Remeswarlal Chaudhury Vs. Ram Niranjan Mour [(1995) Supp3 SCC 44].***

ii. ***Rup Chand Daftary Vs. Ashim Ranjan Modak [(2000) 2 GauLR 402].***

iii. ***Shipping Corporation of India Ltd. Vs. Machado Brothers and Ors. [(2004) AIR(SC) 2093].***

iv. ***On the death of Nopatrai Khemka his legal heirs, Sushila Devi Khemka (wife) and Ors. Vs. Smt. Sabitri Devi Kejriwal & Anr. [(2016) 5 GLR 28]***

12. In the case of ***Rameswarlal Chaudhury*** (supra) it has been held that mere deposit of rent in the Court without tendering the same to the landlord is not in compliance of Section 5(4) of the Act.

13. In the case of ***Rup Chand Daftary*** (supra), this Court by following the case of ***Rameswarlal Chaudhury*** (supra) has laid down that mere deposit of rent in Court without tendering is not a valid deposit. The same principles have been reiterated in the case of ***Nopatrai Khemka*** (supra).

14. The case of ***Shipping Corporation of India Ltd.*** (supra) has been cited in support of the submission that subsequent developments are required to be considered by the Court.

15. *Per contra*, Sri Sharma, the learned Senior Counsel for the respondent has submitted at the outset that the jurisdiction to be exercised by this Court under Section 115 of the Code of Civil Procedure is a limited jurisdiction and findings

of fact should not be interfered with. He submits that in the instant case, there are concurrent findings of fact by appreciation of evidence and therefore this Court may not interfere with such findings by invoking the powers of revision.

16. On the first ground of default, the learned Senior Counsel submits that rents were deposited in the Court and in any case, advance payment was lying with the plaintiffs and therefore the defendants could not have been termed as defaulter. By referring to the judgment of the First Appellate Court, the learned Senior Counsel has submitted that two points for determination were formulated, which reads as under:

1. Whether the learned Munsiff has rightly decided the suit by way of proper appreciation of evidence on record?

2. Whether the learned Munsiff has committed any error while passing the impugned judgment and order and whether any interference is required by this Appellate Court?

17. He submits that an amount of Rs.2,50,000/– was paid at the time of entering into the rent agreement as Security and the plaintiffs were silent on this aspect. By referring to the discussions of the Appellate Court, more particularly, those made in paragraphs 14, 15 and 16 of the judgment, the learned Senior Counsel has submitted that the said discussion on *bona fide* requirement is based on reasons which are not liable to be interfered with.

18. In support of his submissions, the learned Senior Counsel for the respondent has placed reliance upon the following case laws.

i. Hindustan Petroleum Corpn. Ltd. v. Dilbahar Singh [(2014) 9 SCC 78]

ii. Gandhe Vijay Kumar v. Mulji @ Mulchand [(2018) 12

SCC 576]

19. In the case of ***HPCL*** (supra), the Hon'ble Supreme Court has reiterated the limited scope of interference by a revisional Court, more so, when there are concurrent findings of fact. In the case of ***Gandhe Vijay Kumar*** (supra), the principles laid down in the case of ***HPCL*** (supra) have been followed.

20. The rival submissions made by the learned counsel for the parties have been duly considered and the materials placed before this Court have been carefully examined. This Court has also perused the LCR.

21. At the outset, this Court takes into consideration the objections raised on behalf of the respondent regarding the limited role to be played by this Court in exercise of powers of revision under Section 115 of the CPC. The said factors can be enumerated as follows:

i. When the order passed is without jurisdiction

ii. When there is refusal to pass an order by the Court which was vested with such jurisdiction

iii. When the order appears to be fraught with material irregularity illegality.

iv. When the order has been passed by ignoring / overlooking the relevant factors into consideration and

v. When the order has been passed by taking into consideration irrelevant and extraneous factors.

vi. Interference may not be called for when the view taken is a plausible view and only because an alternative view is possible to be taken on the

basis of the materials.

vii. When the order impugned if passed in favor of the petitioner would have disposed of the proceeding.

22. This Court is also reminded that under the Urban Areas Rent Control Act, there is no provision for any second appeal and therefore invoking the provisions of Section 115 of the CPC is the only remedy available to any aggrieved party. Accordingly, this Court is required to see as to whether the decision making process which had culminated in the judgments were done by considering the materials on record and as to whether the principles of law were duly adhered to.

23. Admittedly, the ejectment suit was instituted on two grounds, namely, defaulter and *bona fide* requirement. There is no dispute to the landlord-tenant relationship in this case.

24. While the case of the petitioners-plaintiffs is that rents from the month of July 2004, have not been paid or even tendered, the defence was that rent was paid and since receipt was not given for the month of July 2004, the same was again deposited in the Court. The pleadings in the plaint, as noted above, is clear that rent was not paid from the month of July 2004. The contention of the learned counsel for the petitioners is that though the written statement was filed in September 2005, there were no pleadings regarding payment of rent in the Court. However, it is found that in paragraph 18 of the written statement, the defendants had made a clear statement that since rent was refused to be accepted, the same was deposited in the Court.

25. Shri Alam, the learned counsel for the petitioners had submitted that the fact of deposit of rent in the Court was not properly established as the NJ case

records were not exhibited and in this regard, reference was also made to the provisions of Section 5 (4) of the Act by terming the same to be mandatory in nature. This Court has however found that the challans by which the rents were deposited in the Court were duly proved as Exhibits. This Court has also noticed that there is no serious contention made by the petitioners on the procedure for depositing the rent in the Court and the conditions precedent. To the contrary, it is the pleaded case of the defendants that the claim of non-payment of rent for July 2004, has not only been denied, the defendants have further stated that rent was paid and only as receipts were not given, the same are deposited in the Court. The defendants have also projected that Advance / Security money were lying with the plaintiffs. This Court is of the opinion that the purpose of Security money cannot be equated with the requirement of timely payment of rent. However, the allegation of non-payment of rent does not appear to have been established as the materials would show that the rents were paid in the Court by following the procedure and in this regard, the challans of the NJ cases were also proved. Therefore this Court is not able to accept the contention made on behalf of the petitioners on the first ground, namely, default in payment of rent. Though Shri Alam, learned counsel has also tried to bring to the notice of this Court certain subsequent development by means of IA(C)/2796/2017, such development, unless duly proved cannot be taken cognizance of and therefore this Court does not find fault with the findings arrived at on the issue of defaulter.

26. With regard to the issue of *bona fide* requirement, the findings of the Trial Court is that the plaintiff is required to show that the process was initiated for which the premises in question was required. The learned Trial Court also took into consideration that there were other rooms and open space. For ready

reference, the observation made by the learned Trial Court is extracted hereinbelow-

> "*Mere statement that the land lord is in bona fide requirement of the suit premises is not enough. In order to show that she is in bona fide requirement of the suit premises, she has to show that she has initiated the process for which the premises is required. In the instant suit till the date of her cross-examination she neither approached any authority for obtaining any license for doing business which show that beyond her desire to start a business, she has not proceeded with anything concrete for starting the business.*
>
> *Under the above facts and circumstances, I find that the plaintiffs are not in bonafide requirement of the suit premises. Hence, this issue is decided in negative."*

27. The learned appellate Court on the said issue had also made the following observations:

> "*14. … As regards the issue whether the suit premises is bonafide requirement for the plaintiffs, it is stated in the plaint as well as in her evidence as PW 1 that the income from the monthly rent of the suit premises is not sufficient to meet the expenditure and as such the plaintiff No. 1 has decided to start a business in the suit premises which is fit for any type of business. The plaintiffs have no other accommodation fit for doing business.*
>
> *15. Defendant No. 1 in his pleadings stated that the plaintiffs have one shop, adjacent to the demised premises, where the plaintiff No. 1 has a P.C.O. and Rollick Ice Cream Parlour. Plaintiff No. 1 earn handsome*

amount from the said business which is enough for maintenance of her family and expenses of children. Plaintiffs also let out a portion of land to a motor garage under the name and style of M/S Supreme Automobiles. The plaintiffs have also four numbers of flats in Rangoli Apartment situated at the back side of the same compound. They have good rental income from those flats. There are also income from the other business left by the predecessor-in-interest of the plaintiffs. Thus, from the above statement it has become crystal clear that there can not be financial distress for their bread and education expenditure. PW 1 in his cross-examination stated that out of four flats, she resided on two flats and rests of the two flats had been let out. She further stated that the PCO adjacent to the suit property was conducted by his brother and as a rent of the said PCO she received an amount of Rs.1000/- from his brother. She also admitted the fact that in the said PCO there is Vodafone connection center in her name.

16. In order to show that the plaintiff is in bonafide requirement of the suit premises, she has to show some positive act and that she has initiated some positive step for which the premises is required. The requirement of law as regards bonafide requirement is that the requirement of the landlord is genuine and his claim is not motivated by extraneous consideration. Mere desire is not sufficient there must be an honest and genuine need. In this connection, learned counsel for the respondent has relied upon decision of our Hon'ble Gauhati High Court in (2003) 1 GLR 296 wherein it is said that there should be materials on record to prove the requirement as honest and genuine. Burden lies on the landlord to satisfy the court that accommodation was not suitable. In

the instant case, appellant having two flats, vodafone connection centre and PCO which is let out to the brother of appellant makes the point clear that the requirement of appellant was not honest and genuine."

28. The ground of *bona fide* requirement is a statutory ground given to a landlord for ejectment of a tenant. The objective behind the said enactment is to enable a landlord to utilize his property by himself and put the same to its best use. Of course, the said ground cannot be taken as a garb to evict a tenant and such requirement, as the nomenclature goes, is required to be *bona fide*. In other words, the requirement has to be genuine and truthful and not a fanciful desire. The Hon'ble Supreme Court in a catena of judgments has settled that the landlord is the best judge as to how the property is to be best utilized by himself. In the instant case, there are three numbers of petitioners; whereas the petitioner no. 1 is the mother, the petitioner nos. 2 and 3 are the son and daughter of the petitioner no. 1. The premises in question was set up during the lifetime of the husband of the petitioner no. 1.

29. The suit was instituted in the year 2004 and the consideration of the learned Court was that the plaintiff is required to show that she had initiated the process for which the premises is required. In the opinion of this Court, such presumption is not only erroneous but also unreasonable. When the premises are under the occupation of a tenant, the question of initiating a process for utilization of the premises before made vacant is not possible. Further, it may not be necessary in every case that any official process was required to be initiated for utilizing a particular premises by the landlord, unless such premises was to be used for business by the landlord himself. This Court is also unable to accept the view of the learned Court below regarding availability of other rooms, open space etc. As stated above, it is for the landlord to decide as to how the

premises are to be utilized and availability of other rooms or open space cannot be a ground to deny any *bona fide* requirement.

30. The Hon'ble Supreme Court in the case of ***Prativa Devi (Smt) v. T.V. Krishnan*** reported in ***(1996) 5 SCC 353*** had held as follows:

> "***2.*** … *The landlord is the best judge of his residential requirement. He has a complete freedom in the matter. It is no concern of the courts to dictate to the landlord how, and in what manner, he should live or to prescribe for him a residential standard of their own. … There is no law which deprives the landlord of the beneficial enjoyment of his property. We accordingly reverse the finding reached by the High Court and restore that of the Rent Controller that the appellant had established her bona fide requirement of the demised premises for her personal use and occupation, which finding was based on a proper appreciation of the evidence in the light of the surrounding circumstances."*

31. By following the aforesaid principle laid down in ***Prativa Devi (supra),*** the Hon'ble Supreme Court in a subsequent case of ***Ragavendra Kumar v. Prem Machinery & Co.,*** reported in ***(2000) 1 SCC 679*** has held as follows:

> "***10.*** *The learned Single Judge of the High Court while formulating the first substantial question of law proceeded on the basis that the plaintiff landlord admitted that there were a number of plots, shops and houses in his possession. We have been taken through the judgments of the courts below and we do not find any such admission. It is true that the plaintiff landlord in his evidence stated that there were a number of other shops and houses belonging to him but he made a categorical statement that his said houses and shops were not vacant and that the suit premises is*

suitable for his business purpose. It is a settled position of law that the landlord is the best judge of his requirement for residential or business purpose and he has got complete freedom in the matter. In the case in hand the plaintiff landlord wanted eviction of the tenant from the suit premises for starting his business as it was suitable and it cannot be faulted."

32. In the case of ***Raghunath G. Panhale v. Chaganlal Sundarji and Co.*** reported in ***(1999) 8 SCC 1*** has held as follows:

"***11.*** *It will be seen that the trial court and the appellate court had clearly erred in law. They practically equated the test of "need or requirement" to be equivalent to "dire or absolute or compelling necessity". According to them, if the plaintiff had not permanently lost his job on account of the lockout or if he had not resigned his job, he could not be treated as a person without any means of livelihood, as contended by him and hence not entitled to an order for possession of the shop. This test, in our view, is not the proper test. A landlord need not lose his existing job nor resign it nor reach a level of starvation to contemplate that he must get possession of his premises for establishing a business. The manner in which the courts have gone into the meaning of "lockout" in the Industrial Disputes Act, 1947 appears to us to be nothing but a perverse approach to the problem. One cannot imagine that a landlord who is in service should first resign his job and wait for the unknown and uncertain result of a long-drawn litigation. If he resigned his job, he might indeed end up in utter poverty. Joblessness is not a condition precedent for seeking to get back one's premises. For that matter assuming the landlord was in a job and had not resigned it or assuming that pending the long-drawn*

litigation he started some other temporary water business to sustain himself, that would not be an indication that the need for establishing a grocery shop was not a bona fide or a reasonable requirement or that it was motivated or was a mere design to evict the tenant. It is not necessary for the landlord to adduce evidence that he had money in deposit in a bank nor produce proof of funds to prove his readiness and willingness as in a suit for specific performance of an agreement of sale of immovable property. So far as experience is concerned, one would not think that a grocery business was one which required extraordinary expertise. It is, therefore, clear that the entire approach of both the courts was absolutely wrong in law and perverse on fact. Unfortunately the High Court simply dismissed the writ petition filed under Article 227 stating that the findings were one of fact. That is why we think that this is an exceptional case calling for interference under Article 136 of the Constitution of India."

33. The case of ***HPCL*** (supra) was cited on behalf of the respondents on the issue of limited jurisdiction of the revisional Court. However, the Hon'ble Supreme Court in the said judgment has also stated as follows.

"***43.*** *We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the first appellate Court/first appellate authority because on reappreciation of the evidence, its view is different from the Court/authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/authority below is according to law and does not suffer from any error of law. A finding of*

fact recorded by Court/authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself as to the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to reappreciate or reassess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a Court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity."

34. In the case of ***Gandhe Vijay Kumar*** (supra) cited by the respondents, the principles of law in the case of ***HPCL*** (supra), while being followed, a reading of the judgment would reveal that the findings in that case were against the tenants.

35. After discussions of the materials on record, this Court is of the view that the principles of law adopted by the learned Court below on the issue of *bona fide* requirement is not only erroneous but also unreasonable and based on

surmises and conjectures and not on the materials on record. This Court has noticed that the ground *bona fide* requirement is specifically pleaded and in the evidence adduced by the plaintiff, the same was reiterated and established.

36. In view of the above, this petition is allowed by holding that the impugned judgment dated 22.08.2012 of learned Civil Judge No. 2, Kamrup, Guwahati affirming the judgment dated 30.06.2010 passed by the learned Munsiff No. 3, Kamrup, Guwahati in Title Suit No. 659/2006 (formerly numbered as TS No. 193/2005) is interfered with and set aside.

37. This Court will now have to consider the aspect of powers of a revisional Court with regard to passing of a decree. This issue came up for consideration in the case of ***Manik Chand Patowa Vs. Sekhar Roy & Ors*** reported in ***2016 (4) GLT 383*** wherein the following observations were made:

> "***3.*** … *Perhaps some amount of deliberations is necessary in this regard. This is because under various statutes, revision petitions are preferred before this court as no appeal has been prescribed in the statute. For example, under the Assam Urban Areas Rent Control Act, 1972, only one appeal lies under Section 8 of the said Act but no further appeal lies there against. In view of the Full Bench Judgment of this court in the case of R.C.Basak Vs. D.N. Pandit reported in 1984 GHC 37 (FJ) no second appeal lies against such appellate judgment as it is not provided for in the statute and so revision petitions are being filed challenging the judgments and decrees passed in appeal under the Act. In a given case, where the revision petition is allowed in favour of the Landlord and a judgment is passed for eviction of the defendant, in that event there is an eviction decree of the High Court which is required to be executed in accordance with law like any other decree of civil court.*

4. *It may be noted here that in yet another judgment of this court in the case of Abdul Matin Choudhury & Ors Vs. Nilyananda Dutta Banik reported in 1997(2) GLT 590 this court held that even during pendency of the revision petition if it is brought on record by a landlord that the tenant did not pay rent in discharge of its obligation under Section 5 of the Assam Urban Areas Rent Control Act, 1972, in that event revisional court is entitled to pass a decree for eviction against a tenant. This is because statutory protection has been given to a tenant under the Assam Urban Areas Rent Control Act, 1972 only so long as he pays rent. This is only an example to show that even in a revision petition, the crusade of the landlord for evicting an undesired tenant from the suit premises continues. Normally, appeal is a continuation of suit but the same does not apply to revision petition. But under aforesaid special circumstances, when the trial court judgments and decrees of eviction are considered in a revision petition under Section 115 of the code of Civil Procedure, the revision appears more like an appeal than an ordinary revision against an interlocutory order. In the case of Ramkaran Das Agar-wala Vs. Radheshyam Agarwala reported in 1989 GHC 80, a Division Bench of this court has already held that grounds of default and bonafide requirement in an eviction suit under Section 5 of the Assam Urban Areas Rent Control Act 1972 involve jurisdictional facts and so the High Court is required to go into the correctness of such findings of facts. This being the position, in a revision petition filed under section 115 of the Code of Civil Procedure arising from a proceeding under Assam Urban Areas Rent Control Act, the nature of revision petition resembles that of the appeal. Same inference would apply in case of revision petition under Section 6 of the Specific*

Relief Act, 1963 as well."

38. Following the aforesaid principles of law, the suit for ejectment is decreed in favour of the petitioners / plaintiffs. Let the decree be prepared accordingly.

39. No order as to cost.

40. LCR be returned.

JUDGE

Comparing Assistant