REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1384 OF 2011

GANDHE VIJAY KUMAR ... APPELLANT (S)

VERSUS

MULJI @ MULCHAND ... RESPONDENT (S)

J U D G M E N T

KURIAN, J.:

1. The appellant before this Court is aggrieved by order passed by the High Court wherein concurrent findings on facts with regard to the bonafide requirements of the appellant have been upset holding that "the court can re-appreciate the evidence to test whether the findings of the Rent Controller are correct". We are afraid, the High Court has misdirected itself and exceeded its jurisdiction. In revisional jurisdiction, the Court is expected to see only whether the findings are illegal or perverse in the sense that a reasonably informed person will not enter such a finding. For proper guidance, it would be appropriate to refer to a recent Constitution Bench judgment in **Hindustan Petroleum**

Corporation Ltd. v. Dilbahar Singh[1], at paragraphs-30, 31 and 43:

> "**30.** We have already noted in the earlier part of the judgment that although there is some difference in the language employed by the three Rent Control Acts under consideration which provide for revisional jurisdiction but, in our view, the revisional power of the High Court under these Acts is substantially similar and broadly such power has the same scope save and except the power to invoke revisional jurisdiction suo motu unless so provided expressly. None of these statutes confer on revisional authority the power as wide as that of the appellate court or appellate authority despite such power being wider than that provided in Section 115 of the Code of Civil Procedure. The provision under consideration does not permit the High Court to invoke the revisional jurisdiction as the cloak of an appeal in disguise. Revision does not lie under these provisions to bring the orders of the trial court/Rent Controller and the appellate court/appellate authority for rehearing of the issues raised in the original proceedings.
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> **31.** We are in full agreement with the view expressed in *Sri Raja Lakshmi Dyeing Works* that where both expressions "appeal" and "revision" are employed in a statute, obviously, the expression "revision" is meant to convey the idea of a much narrower jurisdiction than that conveyed by the expression "appeal". The use of two expressions "appeal" and "revision" when used in one statute conferring appellate power and revisional power, we think, is not without purpose and significance. Ordinarily, appellate jurisdiction involves a rehearing while it is not so in the case of revisional jurisdiction when the same statute provides the remedy by way of an "appeal" and so also of a "revision". If that were so, the revisional power would become coextensive with that of the trial court or the subordinate tribunal which is never the case. The

[1] (2014) 9 SCC 78

classic statement in *Dattonpan* that revisional power under the Rent Control Act may not be as narrow as the revisional power under Section 115 of the Code but, at the same time, it is not wide enough to make the High Court a second court of first appeal, commends to us and we approve the same. We are of the view that in the garb of revisional jurisdiction under the above three rent control statutes, the High Court is not conferred a status of second court of first appeal and the High Court should not enlarge the scope of revisional jurisdiction to that extent."

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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."

These principles hold good generally for exercise of revisional power.

2. There is no dispute with respect to the landlord-tenant relationship. The bonafide requirement also has been concurrently found by the Rent Controller as well as by the Appellate Authority. The High Court should not have ventured to look into the evidence as if in a first appeal and entered a different finding, though another finding might also be possible. Merely because another view is possible in exercise of the revisional jurisdiction, the High Court cannot upset the factual findings.

3. The judgment of the High Court is set aside. The appeal is allowed. The order passed by the Rent Controller, as upheld by the Appellate Authority, is restored.

4. Learned Counsel appearing for the respondent seeks some time to surrender the vacant possession to the appellant. Learned Senior Counsel appearing for the appellant submits that since the

last 70 years, the respondent has been enjoying the property and the appellant is in pressing and bonafide need. Be that as it may, having regard to the fact that the respondent is carrying on a hotel business, we permit him to continue upto 31st March, 2018. On or before 1st April, 2018, the respondent shall surrender vacant and peaceful possession of the premises to the appellant. During the interregnum, the respondent shall not create any third party rights and shall not cause any damage to the property. He shall also file a usual undertaking in the Registry within four weeks from today.

5. There shall be no order as to costs.

.....J.
(KURIAN JOSEPH)

.....J.
(R. BANUMATHI)

New Delhi;
July 27, 2017.