

S.B. Civil Second Appeal No.304/2005
Tulsi Ram
vs
Shanti Lal

DATE OF ORDER : - 30.8.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr.Himansh Maheshwari, for the appellant.
Mr.BR Mehta, for the respondent.

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After going through the facts of the case, I do not find that the any substantial questions of law involved in it as the two courts below concurrently decided the issue of personal bonafide necessity of the plaintiff for the suit shop and both the courts below considered the evidence produced by both the parties. Therefore, there is no merit in this appeal. Hence, the appeal of the appellant is liable to be dismissed, hence, dismissed.

Learned counsel for the appellant prays that sufficient time of three years may be allowed to the appellant to vacate the suit premises because the appellant's settle business will be come to an end and he will have to make proper arrangements for winding up of his business. Learned counsel for the plaintiff-respondents vehemently submitted that there is no reason to grant any time to the defendant-appellant because the plaintiff is in dire need of the shop.

I considered the submissions of learned counsel for the parties and perused the facts of the case.

Looking to the totality of the facts of the case, it will be just and proper to allow the appellant to occupy the premises upto 31st Dec., 2006 on condition that appellant shall submit written undertaking before the trial court within a period of one month from today that he will vacate the suit premises and shall hand over vacant possession of the suit property on or before 1.1.2007 to the landlord and shall not sub-let or part with possession of the suit premises to any other person. During this period, the appellant shall also pay all the arrears of rent and decretal amount, if due, to the landlord within a period of two months from today and shall further pay rent month by month by 15th day of each succeeding month of the tenancy of the appellant. In case of non-compliance and default, the decree shall become executable forthwith.

The appeal of the appellant is dismissed with above concession.

(Prakash Tatia), J.

c.p.goyal/-