

Mrs. R.G. Vakil and Another Vs Ramendra Nath Banerjee

Court: Calcutta High Court

Date of Decision: May 16, 1984

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Order 41 Rule 23, Order 41 Rule 23A, Order 41 Rule 27, 107, 151

Transfer of Property Act, 1882 â€” Section 106

West Bengal Premises Tenancy Act, 1956 â€” Section 13(1)(ff), 13(6)

Citation: 88 CWN 905

Hon'ble Judges: S.K. Mookherjee, J; B.C. Ray, J

Bench: Division Bench

Advocate: P.K. Ray, S.N. Banerjee, R.K. Khanna and B. Singh, for the Appellant; S.D. Banerjee, P.K. Sen, N.M. Bannerjee and Sibdas Chatterjee, for the Respondent

Final Decision: Dismissed

Judgement

B.C. Ray, J.

se two Misc. Appeals are at the instance of the defendants In Title Appeal No. 648 of 1981 and Title Appeal No. 647 of

1981 and they are directed against the common judgment and order of remand passed on 30th April, 1982 by Shri N.K. Bhattacharjee,

Additional District Judge, 7th Court, Alipore allowing the said appeals on reversing the judgment and decree of the Trial Court and sending the

case back on remand to the Court of the Munsif for disposal of the suits according to law after giving an opportunity to the plaintiff to amend his

plaint in respect of the grounds of reasonable requirement and also giving an opportunity to the defendant for filing additional written statement if

any and to afford opportunity to both the parties to adduce evidence only on that point and thereafter to dispose of the suit according to law. The

facts of the case in a short compass are as follows :

The plaintiff R.N. Banerjee who is owner of the premises No. 82B, Shambu Nath Pandit Street by virtue of the will executed by his father Paresh

Nath Banerjee since deceased, brought an action being Title Suit No. 111 of 1977 in the 4th Court of Munsif at Alipore for ejectment of the

defendant appellant Mrs. R.H. Dave from the 2nd floor of the suit premises on the ground of reasonable requirement for his own use and

occupation of himself and the members of his family as his present accommodation at 49, Kali Banerjee Lane, Howrah is inconvenient and not

reasonably suitable for the reasons, inter alia, that the accommodation at the narrow Kali Banerjee Lane with its growing heavy congestion and

consequent uncleanliness and insanitary condition was not reasonably suitable and plaintiff and his family members suffer from diverse ailments, and

that the plaintiff required to shift his office and business to the ground floor of the premises in suit for diverse reasonable causes and it was

reasonably suitable that the residence and the place of office and business should be situate at the same premises. It has also been stated that the

plaintiff's brother who was the owner of 3/4th portion of the said Kali Banerjee Lane House had been negotiating for sale of his said share or

portion of the said premises and on such sale it would be difficult and impossible for the plaintiff to retain his share or portion for convenient and

reasonable habitation and he would be compelled to sell the same.

2. The plaintiff terminated the tenancy of the defendant by a combined notice issued u/s 13(6) of the West Bengal Premises Tenancy Act 1956 as

well as u/s 106 of the Transfer of Property Act with the expiry of the month of October, 1976. The said notice was duly received by the defendant

but she did not vacate the suit premises. Hence the suit was filed for a decree for khas possession of the suit premises by ejecting the defendant

and for other reliefs mentioned therein.

3. The plaintiff also filed another suit being Title Suit No. 112 of 1977 in the 4th Court of Munsif, at Alipore for ejectment of the tenant Mrs. R.G.

Vakil from the ground floor of the premises No. 82B, Shambu Nath Pandit Street, Calcutta on the ground of his reasonable requirement for his

own use and occupation for office and business purposes because his present accommodation at 49, Kali Banerjee Lane House for such purposes

was not reasonably suitable. The defendant/appellant filed written statements in both the suits denying that the plaintiff required the suit premises for

his own use and occupation of the 2nd floor flat of the suit premises and also it was denied that he required the ground floor flat of the said suit said

premises for his office and business purposes. Thereafter an application was filed under order 6 Rule 17 for amendment of plaint on 26th July,

1979 stating that in view of the subsequent events the plaint was to be amended as stated on the lines in the said petition. It was also stated that the

49. Kali Banerjee Lane's house had already been sold on 2nd July, 1979 and the plaintiff had been living at flat no. 6, in premises No. 6E, Lala

Lajpat Rai Sarani, P.S. Bhowanipur, Calcutta since May 1979. It was also stated that he had no office accommodation there and there was no

garage in the said rented accommodation and his car had to be kept on a narrow 8 ft. passage. Two additional written statements were filed on

behalf of the defendants in the said two suits being Title Suit No. 111 of 1977 and 112 of 1977 subsequently re-numbered as Title Suit No; 2 of

1981 and Title Suit No. 3 of 1981 respectively wherein it was stated that the plaintiff had been staying in the flat No. 6 of 6E, Lala Lajpat Rai

Sarani, for the purposes of the suit. It has also been stated that the accommodation available to the plaintiff in the rented flat was quite reasonable,

sufficient and suitable. The defendants denied that the aged mother and two servants were members of his family and it was also denied that the

plaintiff had been paying the sum of Rs. 1000/- per month as rent in respect of the said flat at 6E, Lala Lajpat Rai Sarani. It was further contended

that there was no reasonable requirement of the plaintiff of the said two flats for his own use and occupation as well as for the use and occupation

of the members of his family and also for the purposes of his office and business and that the sale of ancestral house was motivated to create

ground for eviction. On the aforesaid pleadings several issues were framed, of which the issue No. 3 was ""Does the plaintiff require the premises

for his own use and occupation?"" and Issue No. 6 was ""Has the plaintiff any other reasonably suitable accommodation elsewhere?

4. The First Additional Court of Munsif, at Alipore after hearing both the parties and on a consideration of the documentary and the oral evidences

on record held that the property at Kali Banerjee Lane was sold in July, 1979 whereas the plaintiff shifted at 6E, Lala Lajpat Rai Sarani, in May,

1979. From this conduct of plaintiff it was held that the plaintiff went to the rented accommodation before the sale of Howrah house only for the

purpose of the suit. It has been further held that the plaintiff had failed to prove his case for reasonable requirement in both the suits. The plea of

sub-letting was not proved by the plaintiff and as such both the suits were dismissed with costs.

5. Against the said judgment and decree the plaintiff filed two appeals being title Appeal No. 647 of 1981 and Title Appeal No. 648 of 1981

respectively. The said appeals were heard by the 7th Additional District Judge at Alipore and after conclusion of hearing an application was filed

before the Appellate Court on behalf of the appellant under order 41 Rule 23 and 23(a) read with Sections 107 and 151 of the CPC praying for

an order of remand to enable the plaintiff/petitioner of getting an opportunity to amend his plaint and to prove the particulars of his reasonable

requirement of the suit premises in the aforesaid appeals. Objections however, were filed against the said applications by the respondents who are

appellants in the instant appeals. On 30th April, 1982, Shri M.K. Bhattacharjee, Additional District Judge, 7th Court at Alipore, allowed the

appeals and reversed the judgment and decree passed by the learned Munsif. It was held that the plaintiff pleaded and deposed that he had no

other sufficient reasonable accommodation and that he has been residing in a rented flat, this position had been accepted by the defendant as

evident for on the deposition of D.W. 1, Arun Dave, this had not been considered by the learned Munsif, that the plaintiff also gave the number of

members of his family, the finding of the learned Munsif that the plaintiff failed to prove his reasonable requirement of the said two flats for his

residence and office accommodation was not justified and legal. It was, however held that though the plaintiff pleaded reasonable requirement of

the said premises for the purposes of his living as well as of the members of his family and also for the purposes of his office and business yet the

details of such requirement had not been stated either the plaint or in his deposition. As such the learned Additional District Judge while allowing

the appeals on setting aside the judgment and decree of the trial court sent the suits back on remand to the Trial Court for giving the plaintiff an

opportunity to amend the plaints in respect of the grounds of reasonable requirement and to give an opportunity to the defendants for filing

additional written statements, if any, and to afford opportunity to both the parties to adduce evidence only on that point and thereafter to dispose of

the suit according to law.

6. It is against this order of remand that the instant two appeals have been filed by Mrs. R.G. Vakil and Mrs. R.H. Dave. Mr. P.K. Roy, learned

Advocate for the appellant has submitted that the order of the remand is wholly bad inasmuch as the such order cannot be made for supplying the

lacuna in the pleading or evidences. It has been submitted further that in a case where in the basis of the pleading and evidences the appeal ought to

be dismissed there should not be any order of remand to patch up the defects of the pleading. In support of this submission a decision has been

cited at the bar. It has been next submitted that the pleading is defective inasmuch as the plaintiff did not specifically give the details of the

accommodation for himself and members of his family for which he has sought ejectment of the tenant Mrs. R.H. Dave from the 2nd floor flat of

the said premises. It has been further submitted in this connection that the plaintiff previously resided in the 4 rooms in the Kali Banerjee Lane

House at Howrah and the 2nd floor flat consisted of 4 rooms. So two suits that have been brought by him for ejectment of the two tenants from

the ground floor as well as from the 2nd floor can not be allowed. It has also been submitted that since the plaintiff has been living in flat No. 6 of

premises No. 6E, Lala Lajpat Rai Sarani, Calcutta which is quite sufficient to meet needs of the plaintiff and the members of his family for their

accommodation, the plaintiff can not get any decree for ejectment of the tenant from the 2nd floor flat. It has been submitted further that the

reasonable requirement for his own use and occupation which is one of the grounds of ejectment u/s 13 (1) (ff) of the West Bengal Premises

Tenancy Act 1976 cannot be said to have been made out unless there is a genuine need as distinct from a sham or fictitious or so-called need.

There is no such need in the instant case and the plaintiff failed to establish such need also It has been next contended that the sale of the 49 Kali

Banerjee Lane House during the pendency of these suits is a colourable transaction which has been made to create a case for reasonable

requirement and as such the plaintiff is not entitled to evict the defendant appellants from the suit premises and obtain khas possession of the same.

It has been lastly submitted that there is neither in the evidence nor in the pleading the particulars of the requirements for office purpose and

business purpose and as such the plaintiff failed to prove his case of reasonable requirement at least for his office and business purposes in respect

of the ground floor flat of premises No. 82B, Shambu Nath Pandit Street. The plaintiff therefore, can not get any decree of ejectment of the tenant

from the said ground floor flat.

7. Mr. S.D. Banerjee, learned Advocate appearing on behalf of the respondent has submitted at the first place that the plaintiff has pleaded in the

plaints of the aforesaid two suits that he reasonably requires the suit premises i.e. the 2nd floor flat for his own use and occupation as well as for

the use and occupation of the members of his family consisting of himself, his minor son, his wife, his widowed mother and two servants and a

minor daughter. It is not necessary to plead the details of his requirements in the pleading which is a matter of evidence.

8. It has been next submitted by Mr. Banerjee that similarly the plaintiff has also pleaded that after the sale of 49, Kali Banerjee Lane House where

he has his office, the plaintiff reasonably requires the ground floor flat of premises No. 82B, Shambu Nath Pandit Street for his office

accommodation as he has no other accommodation for his office. Moreover it is convenient to have his residence and office situated in the same

premises. It has also been pleaded that the plaintiff has got a car and for this purpose he requires a garage. It has therefore, been pleaded that he

reasonably requires the ground floor premises wherein besides three rooms there are two garages. It has been next submitted by Mr. Banerjee that

the sale of Kali Banerjee Lane house by the plaintiff of his 1/4th share could not be taken as a colourable one effected in order to obtain the decree

for eviction on the ground of reasonable requirements. It has been submitted that in the pleading it has been specifically pleaded that after the sale

of the 3/4th share of the said house by his elder brother it was difficult for the plaintiff to reside in the said house with his family as there will, be no

kitchen nor any garage nor any servant's quarter and as such he had to sell his portion of the said house.

It also been submitted that the plaintiff has pleaded that he has no other reasonably suitable accommodation for the purposes of his residence and

residence of members of his family and for the purposes of his office and business except the suit premises, and as such the suits should have been

decreed instead of remanding the same to the trial Court as there are sufficient evidences on record to prove reasonable requirements of the

plaintiff for the said two flats.

9. The order of the learned Munsif, it has been submitted, should be set aside and both the appeals should be heard and decided by this Court on

merits. First question that requires consideration is whether the pleading is defective, and vague on the ground that the details of requirements of the

plaintiff of the said premises were not pleaded in the pleading. In the plaint it has been specifically pleaded in paragraph 4 that the plaintiff requires

reasonably the suit premises for residence of himself and his family as his present accommodation at 49, Kali Banerjee Lane, Howrah is

inconvenient and not reasonably suitable. In the application for amendment of plaint it has been specifically stated that the plaintiff has been living in

Flat No. 6 at 6E, Lala Lajpat Rai Sarani since May, 1979 as the Kali Banerjee Lane house has been sold on 2nd July, 1979. It has also been

pleaded that there is no car parking space for the plaintiff's car in the said rented premises and he has to pay rent of Rs. 1000/- per month

whereas he gets Rs. 260/- from the tenant of the 2nd floor flat and Rs. 220/- from the tenant of the ground floor flat. It has also been stated that he

has got no other reasonable suitable accommodation except the suit premises. Regarding the reasonable requirement of the ground floor flat, it has

also been pleaded that after the sale of the Kali Banerjee Lane house where his office was previously situated, the plaintiff has no other reasonably

suitable accommodation for his office and business purposes except the suit premises as well for meeting his need for garage which is in the said

floor for keeping his car. Reading the pleading as a whole we are unable to accept the contention of learned Advocate appearing on behalf of the

appellant that the pleading is vague for want of sufficient particulars about the plaintiff's requirement for accommodation of himself and members of

his family as well as for accommodating his office and business and garage.

10. It is quite apparent that the parties are well aware of the issues involved in the suit and evidences were led to that effect by both the parties.

The evidence are quite sufficient for the court to come to a finding on the question of reasonable requirement of the premises in question for own

use and occupation of the plaintiff and the members of his family as well as for his office and business purposes and also for meeting his

requirement for a garage. Reference may be made in this connection to the decision of the Supreme Court in Bhagwati Prasad Vs. Shri

Chandramaul, at page 738 paragraph 10 Bhagwati vs. Chandramul. It has been observed by Gajendragadkar C.J. that if the plea has not been

specifically made and yet it is covered by an issue by implication and the parties knew that the said plea was involved in the trial/ then the mere fact

that the plea was not expressly taken In the pleadings would not necessarily disentitle a party from relying upon it if it is satisfactorily proved by

evidence. The decision cited on behalf of the appellant in AIR 1931 143 (Privy Council) at page 148 Parsotim Thakur -vs- Lal Mohan Thakur has

got no application to the facts of the instant case. In that case it has been held that section 107 read with order 41 Rule 27 of the CPC were clearly

not intended to allow the litigant who had been unsuccessful in the lower court to patch up the weak parts of his case and fill up omissions in the

Court of appeal. Under Order 41 Rule 27 Clause (1)(b) it is only where the appellate court requires that additional evidence can be admitted. It

may be required to enable the Court to pronounce judgment or for any other substantial cause, but in either case it must be the court that requires

it.

11. It is pertinent to mention in this connection that the pleading regarding reasonable requirement has been made with sufficient clarity in the plaint

and there is no necessity of any elucidation of the pleading. Moreover both the parties have adduced evidences on the question of reasonable

requirements of the suit premises for own use and occupation for residential purposes as well for purposes of business and office and garage and

as such in our considered opinion the order of remand for giving the plaintiff an opportunity to amend the plaint as well as to allow both parties to

adduce further evidences on that point is not necessary. The order of remand as made by the lower appellate Court, in our opinion, is not

sustainable.

12. The next question that falls for consideration is as to whether the plaintiff reasonably requires the 2nd floor flat for his own use and occupation

as well as for the use and occupation of his family members and whether the plaintiff has got any other reasonably suitable accommodation or not.

The plaintiff has pleaded in para 4 of the plaint that he reasonably requires the suit premises. i.e. the 2nd floor of premises 82B, Shambu Nath

Pandit Street for residence of himself and the members of his family as his present accommodation in 49 Kali Banerjee Lane house is not

reasonably suitable for reasons stated therein. Subsequently the plaintiff amended the plaint and stated that the house at 49, Kali Banerjee Lane has

been sold away and he has been living with his family in a rented flat being flat no. 6 of premises no. 6E, Lala Lajpat Rai Sarani. It has also been

stated that he has been paying Rs. 1000/- as rent per month for the said premises and there is no garage in that for his car which is being kept in

the common passage. He has also no other reasonably suitable accommodation. The plaintiff has also stated in his deposition that the 49, Kali

Banerjee Lane House which was bequeathed to him and his elder brother by virtue of the will executed by his father Late Paresh Nath Banerjee

has been sold and he has been living at 6E, Lala Lajpat Rai Sarani at Flat No. 6 at a monthly rental of Rs. 1000/- according to English calendar

month. Rent receipts exhibit 1 series have also been filed by the plaintiff. It has also been stated by him that he had been feeling inconvenience in

residing at his present accommodation in the flat and he is also incurring financial loss. Moreover there is no car parking space at his present

residence. The plaintiff has also stated that his family consists of himself, his wife, his school going son aged 7 years at the time of his deposition in

January 1981 his daughter aged 11/2 years, widowed mother and two servants.

13. In cross examination the plaintiff denied that the rent receipts were collusive and the same were procured for the purposes of the suit. He also

denied that he had no car parking space in the rented accommodation. The plaintiff further denied the suggestion that his mother resided with his

brother. He has also stated that he does not possess any other reasonably suitable accommodation. P.W. 2 Samar Nath Banerjee has stated that

the plaintiff is a tenant in respect of flat no. 6 at 6E, Lala Lajpat Rai Sarani and the rent of the said flat is Rs. 1000/- per month. He has also

deposed that the rent receipt exts. Nos. 1, 1(a) & 1(b), 1(f) and 1(2) have been written by him while other receipts exts. 1(c) and others were

written by Rabindra Nath Banerjee. He has also stated that no car parking space has been allotted to the plaintiff. It is thus evident that the plaintiff

has been occupying the 2nd floor flat since May 1979. In cross examination the suggestion that the mother of the plaintiff resides with Soumen

babu and not with the plaintiff was denied by P.W. 2 also. The D.W. 1 Arun Dave, son of the tenant Mrs. R.H. Dave, stated that he did not find

any office at the plaintiff's accommodation at Lala Lajpat Rai Sarani. He also stated that he had no occasion to ask the plaintiff about the family

members who had been residing with the plaintiffs at his flat. He also stated that he did not have any knowledge that the plaintiff had any other

house. He further stated that he did; not find any office at plaintiffs' accommodation at Lala Lajpat Rai Sarani. He further stated that the plaintiff's

car is kept in an open space i.e. open to the sky. It is also his evidence that he does not have any knowledge that the plaintiff has any other house.

From these evidences it is quite clear and apparent that the plaintiff reasonably requires the suit premises being the 2nd floor flat comprising of 3

bed room, one drawing room, kitchen and bath of premises no. 82B, Shambu Nath Pandit Street for accommodation of himself and the members

of his family. It is further evident that the plaintiff is a well-to-do person and he is a business man and as such the said accommodation of the 2nd

floor flat is reasonably required by the plaintiff for his own use and occupation as well as for use and occupation of the members of his family. Thus

such requirement cannot be said to be not commensurate with the social status and standard of living of the plaintiff. It was tried to be contended

on behalf of the appellants that the plaintiff sold the 49, Kali Banerjee Lane house for the purpose of creating artificial for the said flat for the per-

pose the suit. This argument is not at all acceptable in view of the fact that the 49, Kali Banerjee Lane house which was bequeathed to the plaintiff

and his elder brother Soumen Banerjee had been admittedly sold by them in July, 1979 and the plaintiff has to shift to a rented accommodation at

flat No. 6 at 6E, Lala Lajpat Rai Sarani at a rental of Rs. 100/- per month. It is also in evidence hereinbefore that the plaintiff has "no other suitable

reasonable accommodation" for himself and the members of his family. In these circumstances the reasonable requirement of the plaintiff for the

said 2nd floor flat of premises No. 82B, Shambu Nath Pandit Street for accommodation of himself and members of his family cannot be negated

simply on the ground that the sale of the Kali Banerjee Lane house where the plaintiff previously resided was made for the purposes of the suit as

had been wrongly held by the trial court- Therefore, on a consideration of the evidence on record we are constrained to hold that the plaintiff's

reasonable requirement for the 2nd floor flat for his own use and occupation as well as for the occupation of the members of his family has been

duly proved.

14. As regard the ground floor flat of the said premises it has been pleaded in the plaint that the plaintiff requires the same for his own use and

occupation for office and business purposes because his present accommodation for such purposes is not reasonably suitable for the reasons

stated therein. In the amended plaint it has been further pleaded that after the sale of Kali Banerjee Lane House where he has office, he has no

office or car parking accommodation in rented flat at 6E, Lala Lajpat Rai Sarani, It has also been pleaded that he is in urgent need of office and car

accommodation at the said premises and he has no other reasonably-suitable accommodation for the same except in suit premises.

15. The plaintiff in his evidence stated that he has no car parking space at his rented accommodation. It has also been stated that he wished to shift

his office from 49, Kali Banerjee Lane house which has been sold out at the tenanted portion of tenant Mrs. Vakil. He required his portion of

premises No. 82B, Sambhu Nath Pandit Street. It has also been stated in his deposition that most of his client's offices are in and around B.B.D.

Bag and Esplanade. His main customer S.E. Railway have their office in the Garden Reach. He has also stated that he required a garage for

keeping his car. He denied the suggestion that he did not require a display and Show Room for his products. He has also denied the suggestion

that he has no necessity of office room at the suit premises. The D.W. 1 Arun Chandra Dave has stated in his deposition that he has no knowledge

that the plaintiff has any other house and he has also stated that the plaintiff has no office at plaintiff's accommodation at Lala Lajpat Rai Sarani.

The plaintiff's car is kept in an open space. He has also admitted that the plaintiff has no other residence except the suit premises. From this

evidence it is quite clear that the plaintiff requires the suit premises for the purposes of his office and business accommodation as well as for show-

room of his product and for the purpose of garage for keeping his car. The ground floor flat undoubtedly comprises of 3 bed rooms, bath, privy

and two garages. The plaintiff requires at least one room for the Show room and one room for his office and also he requires one garage, leaving

aside the question of his requirement of one room for entertaining his customers. There is no evidence adduced on behalf of the defendant to show

that she is agreeable to an order of eviction from a part of her tenancy. Moreover there being only one bath-room, it is difficult for the defendant to

reside in a part of the flat in case a decree for partial eviction is made as the same will be used for the purposes of office, business and show room

of the plaintiff. The defendant, however, is not also agreeable to partial eviction of the said ground floor flat. We have already stated that the

plaintiff has proved his reasonable requirement for the purposes of his office and business and show-room and garage of the said ground floor flat

and as such he is entitled to get a decree of ejectment of the tenant/defendant i.e. the appellant of appeal No. F.M.A. 652 of 1982 from the said

flat.

16. An argument has been advanced on behalf of the appellant that the plaintiff having a suitable accommodation in the rented flat no. 6 at 6E, Lala

Lajpat Rai Sarani, the claim of the plaintiff for ejectment on the ground of his reasonable requirement for his own use and occupation and the

members of his family as well as for office and business purposes is not sustainable. Undoubtedly the plaintiff is at present staying in a rented

accommodation at 6E, Lala Lajpat Rai Sarani. Undoubtedly the accommodation held in absolute ownership has an edge over the accommodation

available as a tenant. It has therefore, been held in (1977) 2 C.L.J. page 19 at pages 26-27 Haraprasad v. Bamdeb, that the landlords' claim for

eviction of his tenant from his own house could not be ipso-facto defeated simply because at the relevant time the landlord is in occupation of a

reasonably sufficient accommodation in a tenanted house. This decision has been followed in a later decision reported in 87 C.W.N. page 92

Bharati Industries & Anr. v. Nirmal Kumar Bhattacharjee & Ors. It has been further held in the said case that the financial benefit to be obtained is

also a relevant consideration to decide genuineness of landlord's requirements of the suit premises for his own occupation. This observation has

been made relying on the decision in Hukan rai vs. Chhail Bihari, 1978 (2) R C.J. 254 and Mst. Bega Begum and Others Vs. Abdul Ahad Khan

(Dead) by Lrs. and Others, . The Supreme Court held that the necessity of the suit premises for augmenting income of the landlord is a genuine and

reasonable requirement and a ground of eviction of the tenant. In the instant case it is evident from the pleading as well as from the evidence that

the plaintiff is staying in the rented flat at 6E, Lala Lajpat Rai Sarani at a rental of Rs 1000/- per month while he has been receiving Rs. 260/- as

rent from the tenant in respect of the 2nd floor flat and Rs. 220/- as rent from the tenant in respect of the ground floor flat of the said premises.

Therefore, the plaintiff is a loser inasmuch as he is to pay much more sum of money for rented flat in his occupation though he has been receiving

much lesser amount as rent from his tenants. According to the aforesaid decision this is also a ground of reasonable requirement of the said

premises for evicting the tenant from the suit premises.

17. It is appropriate to mention in this connection that reasonable requirement as provided in Section 13(1) (ff) of the West Bengal Premises

Tenancy Act means that the requirement must be a bonafide requirement i.e. there must be genuine need of the accommodation In question for

own use and occupation of the landlord of the suit premises for accommodating himself and members of his family.

18. Reference may be made in this connection to the decision in Mattulal Vs. Radhe Lal, , at page 1603 paragraph 12 where it has been observed

that the requirement as envisaged in the Premises Tenancy Act must be a genuine requirement. In other words there must be an element of need

but the meaning of the word "requirement" should not be stretched too far to defeat the purposes of the Act. I have already held hereinbefore after

consideration and appraisal of the evidences on record that the plaintiff has successfully proved that he reasonably requires the suit premises

for his own use and occupation as well as for use and occupation of the members of his family and also for the use and occupation for his office

and business purposes and for purposes of his garage. This submission, therefore, that the plaintiff failed to establish the genuine need is untenable.

For the reasons aforesaid the contention advanced on behalf of the appellant having failed the appeals fail and they are dismissed. The suits are

allowed with costs. The defendants/appellants are given three month's time to vacate the suit premises. In default the plaintiff will be at liberty to

take possession by executing the decree. In view of the above findings the cross appeals filed by respondents are disposed of.

Samir Kumar Mookherjee, J.

I agree.