

Paraschand Vs. Hemant Kumar

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Court : Madhya Pradesh

Decided On : Nov-06-1986

Reported in : AIR1987MP50; 1987MPLJ137

Judge : G.G. Sohani, Ag. C.J., ;S.S. Sharma and ;K.L. Shrivastava, JJ.

Acts : Madhya Pradesh Accommodation Control Act, 1961 - Sections 12(1) and 23A; Madhya Pradesh Accommodation Control (Amendment) Act, 1983 - Sections 12(1) and 12(2)

Appeal No. : Civil Revn No. 1057 of 1983

Appellant : Paraschand

Respondent : Hemant Kumar

Advocate for Def. : S.R. Joshi, Adv.

Advocate for Pet/Ap. : A.S. Garg, Adv.

Judgement :

Sharma, J.

1. When this matter came before the learned Single Judge, he felt that the correctness of the two single Bench decisions of this Court in Nanuram v. Pundlik, 1984 M.P.R.C.J. Note 77 and Bankim-chandra Manilaji Sanghvi v. Radhakishan

Nandraj Sharma 1984 M.P.L.J. 480 : (AIR 1985 Madh Pra 10) required consideration by a larger Bench. Accordingly honourable the Chief Justice constituted a Division Bench. The Division Bench also seems to have taken note of some more single Bench decisions of this Court on the point in question. A Division Bench decision of this Court in B. Johnson v. C.S. Naidu, 1985 Jab LJ 793 : (AIR 1986 Madh Pra 72) had also been referred to, and it felt that the question, which had been referred to the Bench was not directly in issue in Johnson's case (supra). All the same, in view of the observations made therein, the Division Bench felt that to set at rest the controversy, the matter required further consideration by a still larger Bench.

Accordingly this Full Bench came to be constituted.

2. Before dealing with the question in controversy, it would be appropriate to refer to some relevant facts. Respondent Hemant Kumar has filed a suit sometime in the year 1976 against the present petitioner for eviction and arrears of rent, etc. The eviction of the petitioner-tenant was sought on different grounds contained in Section 12(1) of the M.P. Accommodation Control Act, 1961 (hereinafter referred to as 'the Act'). On an application being filed by the plaintiff, the trial Court allowed the plaintiff to withdraw his claim of eviction on the ground of bona fide requirement only, with permission to proceed against the tenant in accordance with Section 23-A of the Act. It is the correctness of this order, which has been challenged by the petitioner-tenant.

3. Here we may refer to the relevant amendments made in the Act. The one, with which we are directly concerned is the M.P. Accommodation Control (Amendment) Act, 1983 (No. 27 of 1983), which admittedly had come into force. By Section 2 of this Amending Act, the title 'M. P. Accommodation Control Act, 1961 (No. 41 of 1961)' was substituted as under :

'An Act to provide for the regulation and control of letting and rent of accommodations, for expeditious trial of eviction cases on ground of 'bona fide' requirement of landlords and generally to regulate and control eviction of tenants from accommodations and for other matters connected therewith or incidental thereto.'

By Section 4 of the said Amending Act, some amendments were effected even in Section 12 of the Act as it then existed. Clauses (e) and (f) of Sub-section (1) of Section 12 of the Act were omitted. Sub-sections (4), (5) and (6) of Section 12 of the Act also stood omitted. Then there were some other amendments also. Yet another amendment by Section 8 of the aforesaid Amending Act was that after Section 23 of the Act, a new Chapter III-A with the heading 'Eviction of tenants on grounds of 'bona fide' requirement' was added. Section 23-A of this Chapter III-A is as under:

'23-A. Special provision for eviction of tenant on ground of bona fide requirement -- Notwithstanding anything contained in any other law for the time being in force or contract to the contrary, a landlord may submit an application, signed and verified in a manner provided in Rules 14 and 15 of Order VI of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908) as if it were a plaint to the Rent Controlling Authority on one or more of the following grounds, for an order directing the tenant to put the landlord in possession of the accommodation, namely-

(a) that the accommodation let for residential purposes is required 'bona fide' by the landlord for occupation as residence for himself or for any member of his family, or for any person for whose benefit the accommodation is held and that the landlord or such person has no other reasonably suitable residential accommodation of his own in his occupation in the city or town concerned.

Explanation -- For the purposes of this clause, 'accommodation let for residential purposes' includes -

(i) any accommodation, which having been let for use as a residence is without the express consent of the landlord, used wholly or partly for any non-residential purpose;

(ii) any accommodation, which has not been let under an express provision of contract for non-residential purpose;

(b) that the accommodation let for non-residential purposes is required 'bona fide' by the landlord for the purpose of continuing or starting his business or that of any of his major sons or unmarried daughters, if he is the owner thereof, or for any person, for whose benefit the accommodation is held and that the landlord or such person has no other reasonably suitable non-residential accommodation of his own in his occupation in the city or town concerned :

Provided that where a person, who is a landlord, has acquired any accommodation or any interest therein by transfer, no application for eviction of tenant of such accommodation shall be maintainable at the instance of such person unless a period of one year has elapsed from the date of such acquisition.'

Sections 23-B and onwards relate to the procedure, etc., to be followed by the Rent Controlling Authority in respect to an application referred to in Section 23-A of the Act.

4. Section 12 of the Amending Act of 1983 reads as under :

'12. Pending suits and proceedings in Civil Court -- (1) Subject to Sub-section (2), all suits filed by landlords for eviction of tenants on the grounds of 'bona fide' requirement of accommodation for residential or non-residential purposes and pending on the date of commencement of this Act, shall, unless the landlord withdraws the same in relation to such relief, be heard, proceeded with and disposed of by the Civil Court as if this Act has not been passed.

(2) Any landlord seeking to evict the tenant exclusively on the grounds of 'bona fide' requirement of accommodation under Section 23-A of the Principal Act, may, if he has already proceeded against the tenant under Clause (e) or Clause (f) of Sub-section (1) of Section 12 of the principal Act, as it existed prior to the commencement of this Act, withdraw the suit in relation to said grounds with leave of Court and proceed against the tenant in accordance with Section 25-A of the principal Act.'

5. A learned Single Judge of this Court in *Nanduram v. Pundlik* (Civil Revision No. 952 of 1983 decided on 13-3-1984 and noted in 1984 M.P.R.C.J. Note 77) had

considered the meaning of Section 12 of the aforesaid Amending Act. On a consideration of the dictionary meaning of the word 'exclusive' that it means shutting out or excluding all but what is specified, he found that Sub-section (2) of Section 12 of the Amending Act would apply only to those cases, where the eviction suit filed and pending in the Civil Court is only on the ground of Section 12(1)(e) or (f) of the original Act and it is only in such type of cases that the provisions of Sub-section (2) of Section 12 of the Amending Act would be attracted and not to those eviction suits, in which eviction was also sought on other grounds as mentioned in Section 12 of the original Act, which have been kept intact. He also took into account that if the suit for eviction is on more than one grounds and withdrawal to file an application before the Rent Controlling Authority is permitted relating to the ground of bona fide requirement, the suit in the Civil Court for eviction on other ground or grounds shall continue with the result that the tenant would be required to contest the landlord's claim in two courts. The intention of the legislature to use the word 'exclusively' in Sub-section (2) of Section 12 of the Amending Act was also taken note of. Support was also sought from the wordings of Section 23-H which has been inserted in Chapter III-A of the Act by the said Amending Act, which provides for deposit of rent pending proceedings for eviction or for revision.

6. The other single Bench decision of this Court is in *Bankimchandra Manilalji Sanghvi v. Radhakishan Nandraj Sharma* : 1984 M.P.L.J. 480 : (AIR 1985 Madh Pra 10), wherein Section 12 of the said Amending Act of 1983 has been considered the learned Judge, in this connection, observed as follows :

'A reading of Sub-section (2) of Section 12 clearly indicates that it has been clearly mentioned that if a landlord seeks to evict a tenant exclusively on the ground of bona fide requirement, it is significant that in this part of the section although the words 'bona fide requirement' are used but there is no reference made to Section 12(i)(e) or (f) as this contemplates a suit, which a landlord wishes to file for eviction on the ground of bona fide requirement and it is further stated that where such a landlord has already proceeded against the tenant under Clause (e) or (f) of Sub-section (1) of Section 12. This part of the section, therefore, clearly enacts that this Sub-section (2) of Section 12 is only attracted when a suit is filed by a landlord

against a tenant on the ground under Section 12(1)(e) or (f) exclusively and it is only on these grounds that the landlord wants to seek a decree for eviction and it is in such a situation that this provision permits the withdrawal of the suit from the Civil Court with the leave of the Court and proceed against the tenant in accordance with the amended provisions. The contention advanced by learned counsel for the non-applicant that the words 'withdraw the suit in relation to the said ground' indicate that there may be other grounds also in a suit, cannot be accepted as this Sub-section (2) starts with the term 'exclusively on the grounds of bona fide requirement' and it clearly states that it pertains to only a suit if it is pending on- the grounds under Section 12(1)(e) and (f). It appears that while enacting this provision, the Legislature had in view the scheme of the Code of Civil Procedure, where splitting of cause of action is not permissible and, therefore, even while amending this Act, withdrawal is permitted only where a suit is filed on these two grounds and not others. This also is the view taken by another Single Judge of this Court in the decision reported in *Nanuram v. Pundlik*.'

7. In *B. Johnson's case* (AIR 1986 Madh Pra 72) (supra), the constitutional validity of the two amending Acts including the aforesaid amending Act of 1983, was considered. The Division Bench had also considered the meaning and the intention behind Section 12 of the Amending Act of 1983, which observed as follows :

'The true meaning and intent of Section 12 of the 1983 Amendment Act may now be stated. It was enacted to provide for the effect of the amendment on pending suits for eviction against tenants in which bona fide requirement of the landlord was the only ground or one of the several grounds of eviction, depending on withdrawal of the suit to the extent or not. Suits in which the bona fide requirement of the landlord was not a ground of eviction were obviously unaffected by the amendment. Sub-section (2) of Section 12 provided that the landlord could proceed against the tenant in the new forum of R. C. A. in accordance with the newly inserted Section 23-A after withdrawal of the pending civil suit, if it was exclusively on the ground of bona fide requirement. Sub-section (i) of Section 12 provided that all pending suits in which bona fide requirement of the landlord was a ground of eviction shall be decided by the Civil Court according to the

unamended law, unless the landlord withdrew the same in relation to the relief claimed on the ground of bona fide requirement. Section 12 of the Amendment Act, therefore, gave liberty to the landlord to this extent since the tenant would not feel aggrieved by the landlord continuing the suit in Civil Court instead of preferring the new forum of R. C. Authority.

In short, Section 12 of the Amendment Act provided merely for the consequence of withdrawal or, failure to withdraw the suit or a part of it, based on the ground of bona fide need, while the withdrawal itself was to be governed by the provisions of the Code of Civil Procedure.'

The Supreme Court decision in *Kewal Singh v. Lajwanti*, AIR 1980 SC 161 clearly indicates the above conclusion. It was held by the Supreme Court, while dealing with the question of amendment to permit withdrawal or addition of a ground for eviction of the tenant, on which the suit is based, is (sic) a separate and distinct cause of action; it is open to the plaintiff-landlord as he chooses, to relinquish one or the other of them, and to file a fresh suit on the basis of a distinct cause of action, which he may have so relinquished, It was pointed out that Order 2 Rule 2 CPC has no application, for this reason. In the face of this authority, it cannot be doubted that the landlord has an option to relinquish one or more of the causes of action, on which the suit is based, subject to the provisions of the Code of Civil Procedure, permitting withdrawal of the suit as a whole or in part. The ground of eviction based on bona fide need of the landlord being a separate and distinct cause of action, withdrawal of the same when the suit is based on several grounds is governed by the same principle and can be permitted in accordance with the provisions of the Code of Civil Procedure. Section 12 of the 1983 Amendment Act does not govern its withdrawal and merely provides for the consequences thereof.

Two Single Bench decisions in *Nanuram v. Pundlik* (1984 M.P.R.C.J. Note 77) and *Bankimchandra v. Radhakishan* (AIR 1985 Madh Pra 10) were cited at the bar to show that a contrary view of the meaning of Section 12 of the 1983 Amendment Act has been taken therein. These decisions proceed on the basis that all grounds of eviction together constitute one cause of action on account of which the whole suit can be withdrawn and not merely one of the grounds, on which it is based, as

it would result in 'splitting of cause of action' which is not permissible. Obviously, that is in direct conflict with the Supreme Court's decision in Kewal Singh's case (supra), which does not appear to have been brought to the notice of the learned Judges taking that view. We, therefore, regret our inability to subscribe to that view.'

The challenge to the validity of the Amending Acts was rejected by the Division Bench'.

8. Section 12(1) of the Act, as it stood prior to the amendment, contained different grounds, on which the landlord could file a suit for eviction against his tenants. Section 12(1){e) and (f) contained grounds of bona fide requirements of the landlord, as mentioned therein. By the Amending Act of 1983, Chapter-III-A was inserted, which provided the procedure with regard to eviction of tenants on grounds of bona fide requirements. Under this chapter, a landlord cannot submit an application to the Rent Controlling Authority for eviction of tenants on the grounds other than the bona fide requirement, as has been dealt with under Section 23-A, which was inserted in Chapter III-A by Section 8 of the Amending Act of 1983. Thus, in respect to the other grounds not covered by Section. 23-A, the suit for eviction could well be filed in the competent Civil Court. This, in itself, answers the reasoning of the learned single Judge in Nanuram's case (supra), wherein he observed that a tenant would be required to contest the landlord's claim in two different Courts. Admittedly, there is no bar to the landlord filing a suit for eviction on grounds other than bona fide requirement, in the Civil Court and on the ground of bona fide requirement before the Rent Controlling Authority.

9. By the Amending Act of 1983, Section 13 of the Act, as it then stood, was also amended. Sub-sections (1) and (2) of Section 13 of the Act were substituted by sub-sections (1) and (2), as are referred to in Section 5(a) of the Amending Act. By Section 5(b) of the Amending Act, Sub-section (6) of Section 13 also came to be substituted, as mentioned in the said Amending Act. Section 23-H in Chapter III-A, as inserted by Section 8 of the Amending Act of 1983, reads as under :

'23-H. Deposit of rent pending proceedings for eviction or for revision -- The provisions of Section 13 shall apply 'mutatis mutandis' in respect of an application

for recovery of possession of accommodation under Section 23-A and in respect of proceeding for revision under Section 23-E against final order by the Rent Controlling Authority under Section 23-C or under Section 23-D, as they apply to a suit or proceeding instituted on any of the grounds referred to in Section 12 :

Provided that no suit or proceeding for eviction of the tenants is pending before any Court at any of its stages in relation to the same accommodation.'

A reading of Section 23-H makes it clear that the provisions of Section 13 were applied mutatis mutandis in respect of an application for recovery of possession of accommodation under Section 23-A as also to the proceedings for revision under Section 23-E, under Section 23-C or under Section 23-D. The proviso, as aforesaid, to this Section 23-H, is significant in the sense that this Section 23-H would be attracted only when 'no suit or proceeding for eviction of the tenant is pending before any Court at any of its stages in relation to the same accommodation'. This makes it further clear that where a suit or proceeding for eviction on grounds other than the bona fide requirement is pending before any Court, i.e., the Civil Court at any of its stages in relation to the same accommodation, Section 23-H would not be applicable that is to say that the tenant would not be required to make deposits etc. as required by Section 13 of the Act, before the Rent Controlling Authority. As a matter of fact, the reading of this proviso in itself makes it clear that framers of law had contemplated two separate proceedings for eviction one before the Rent Controlling Authority and the other before the Civil Court. The proviso to Section 23-H does not seem to have been brought to the notice of the learned Judge in Nanuram's case (1984 M.P.R.C.J. Note 77) (supra).

10. As a result of the Amending Act of 1983, the suits for eviction covered under Section 23-A could be filed before the Rent Controlling Authority and on the grounds, which were not covered under that Section and were covered under Section 12(1) of the Act, the suit had to be filed before the Civil Court. That being the result, Section 12 of the Amending Act made a provision with regard to the pending suits and proceedings in Civil Court. Sub-section (1) of this Section 12 is subject to Sub-section (2) of that Section. Under Sub-section (1), the suit filed by

the landlord for eviction of tenants on the grounds of 'bona fide requirements' of accommodation for residential or non-residential purposes, which was pending on the date of commencement of the Amending Act, could be proceeded with and disposed of by the Civil Court as if this Amending Act had not been passed, unless the landlord withdraws the same in relation to such relief. The words 'such relief' in Sub-section (1) of Section 12 of the Amending Act in the context would refer to the relief of eviction on the grounds of bona fide requirements of accommodation for residential or non-residential purposes. Sub-section (2) of Section 12 enables the landlord to withdraw the suit in relation to the said grounds with leave of the Court and proceed against the tenant in accordance with Section 23-A of the Act. The words 'said grounds' obviously mean Clause (e) and/or Clause (f) of Sub-section (1) of Section 12 of the Act, as it stood prior to the commencement of the Amending Act of 1983. After such withdrawal of the suit in relation to these grounds with the leave of the Court, the landlord can proceed against the tenant in accordance with Section 23-A of the Act. The controversy seems to have arisen by the opening part of Sub-section (2) of Section 12 of the Amending Act, which reads as 'any landlord seeking to evict the tenant exclusively on the grounds of 'bona fide requirements' of accommodation under Section 23-A of the principal Act'. The construction, which seems to have been given and as was contended before us, is that this relates to the suit, which is pending in the Civil Court, wherein eviction is sought 'exclusively' on the grounds of bona fide requirements of accommodation. In our opinion, a plain reading of this Sub-section does not permit the said construction or meaning that is being given to it. There could be no suit pending in the Civil Court under Section 23-A of the Act when the Amending Act of 1983 had come into force because prior to this Amending Act, there was no section like Section 23-A of the Act. This part of the sentence, as we have reproduced above, clearly refers to a situation where a suit for eviction on grounds contained in Section 12(1)(e) and/or (f) is already pending and the landlord seeks or wishes to evict the tenant exclusively on the grounds of bona fide requirements of accommodation under Section 23-A of the Act. Then, by virtue of Sub-section (2), he is permitted to withdraw the suit in relation to the said grounds with the leave of the Court and proceed against the tenant in accordance with Section 23-A of the principal, i.e. the Act as it stood after the Amending Act of 1983. This Sub-

section (2) is more or less an enabling provision in as much as that by Sub-section (i) of Section 12 of the Amending Act in spite of the said amendment and the jurisdiction of the Civil Court having been taken away with regard to the suits for eviction on the grounds of bona fide requirements, the suits pending in the Civil Court on the date of the commencement of the Amending Act of 1983 could still be decided by the Civil Court. Sub-section (2) gives a chance to the landlord if he so chooses, to withdraw the suits in relation to the said grounds, i.e. Clause (e) and/or Clause (f) of Sub-section (1) of Section 12 of the Act, as it stood prior to the Amending Act of 1983, with the leave of the Court and proceed against the tenant in accordance with Section 23-A of the Act, which was felt to be an expeditious remedy by the framers of the law. The word 'exclusively', as is used in Sub-section (2), does not refer to the suit pending in the Civil Court, that is to say that it does not mean that the suit in the Civil Court has to be exclusively on the grounds of bona fide requirement but means that if the landlord wants to evict the tenant on the grounds of bona fide requirements exclusively, If the opening words of the sentence in subsection (2) were taken to refer to the suit pending in the Civil Court, the subsequent words 'may, if he has already proceeded against the tenant under Clause (e) or (f) subsection (1) of Section 12 of the principal Act, as it existed before the commencement of this Act', would be wholly redundant. What Sub-section (2) contemplates is that if the landlord has already proceeded against the tenant under Clause (e) or Clause (f) of subsection (1) of Section 12 of the Act, as it existed prior to the commencement of the Amending Act of 1983, i.e. a suit has been filed by him for eviction in the Civil Court and the landlord seeks to evict the tenant exclusively on the grounds of bona fide requirements of accommodation under Section 23-A of the Act, as it stood after the amendment, he may withdraw the suit in relation to the said grounds with leave of the Court and proceed against the tenant in accordance with Section 23-A of the Act as it stood after the Amending Act of 1983.

11. Withdrawal of the suit contemplated by Sub-section (2) of Section 12 of the Amending Act is only related to the said grounds, i.e. the grounds under Clause (e) or Clause (f) of Sub-section (1) of Section 12 of the Act, as it existed prior to the commencement of the Amending Act, and not to any other ground. It nowhere says that the landlord has to withdraw the suit for eviction on all the grounds from

the Civil Court. The withdrawal contemplated by subsection (2) is in relation to the grounds, as are referred to in that sub-section. In Bankimchandra's case (AIR 1985 Madh Pra 10) (supra), a part of the observation supports the construction that we are giving to the language of Section 12(2) of the Amending Act. What the learned Judge has observed is that 'a reading of Sub-section (2) of Section 12 clearly indicates that it has been clearly , mentioned that if a landlord seeks to evict a tenant exclusively on the ground of bona fide requirement, it is significant that In this part of the Section although the words 'bona fide requirement' are used, there is no reference made to Section 12(1)(e) or (f), as this contemplates a suit, which a landlord wishes to file for eviction on the ground of bona fide requirement and it is further stated that where such a landlord has already proceeded against the tenant under Clause (e) or Clause (f) of Sub-section (1) of Section 12.' This in itself makes it clear that the opening words of Section 12(2) of the Amending Act that 'any landlord seeking to evict the tenant exclusively on the grounds of bona fide requirement of accommodation under Section 23-A of the principal Act' have been taken to mean the suit, that is the application, which the landlord wishes to file for eviction on the grounds of bona fide requirement. This part of the observation, as has been referred to above, clearly goes to show that the word 'exclusively', as has been used in Sub-section (2) of Section 12 of the Amending Act. according to the learned Judge, refer to the proceedings sought to be initiated by the landlord exclusively on the ground of bona fide requirement. Having so observed, the learned Judge in further part of the order seems to have taken the word 'exclusively' to govern the suit pending in the Civil Court and ultimately approved Nanuram's case (1984 M.P.R.C.J. Note 77) (supra).

12. In B. Johnson's case (AIR 1986 Madh Pra 72) (supra), the Division Bench, while considering the validity of the aforesaid Amending Act and the other Amending Act, had occasion to consider the meaning of Section 12 of the Amending Act of 1983. The Division Bench took the view that there could be withdrawal in a pending suit in respect to the grounds of eviction of 'bona fide requirement' and the landlord could proceed under Section 23-A, as was inserted by the said Amending Act. A close reading of paragraph 38 would clearly indicate that the Division Bench had taken the same view with regard to the meaning and construction of Section 12, as has been taken by us. The Division Bench, though

on different reasoning, rightly held that Nanuram's case (supra) and the case of Bankimchandra (supra) had not been correctly decided.

13. As already stated, by insertion of a new Chapter III-A by the Amending Act of 1983, a separate forum was provided for eviction of the tenants on the grounds of bona fide requirement referred to in Section 23-A. The said Chapter provides the procedure also in that behalf. Section 12 of the Amending Act provided for the suits that were pending when the said Amending Act came into force. Sub-section (1) of Section 12 of the Amending Act, which is subject to Sub-section (2), deals with the cases where in the suit pending before the Civil Court for eviction for residential or non-residential accommodation was also on the grounds of 'bona fide requirement'. What the sub-section provides is that unless the landlord withdraws the same in relation to such reliefs, i.e. the relief of eviction on the grounds of bona fide requirement, the suit could be heard, proceeded with and disposed of by the Civil Court as if the Amending Act of 1983 had not come into force. However, if the landlord wishes to evict the tenant exclusively on the grounds of bona fide requirement of accommodation under Section 23-A of the Act, and his suit for eviction is already pending in the Civil Court, which also contains grounds of eviction provided in Clause (e) and/or Clause (f) of Sub-section (1) of Section 12 of the Act. as it stood prior to the Amending Act of 1983, he may withdraw the suit in relation to the grounds of bona fide requirement with leave of the Court and proceed against the tenant in accordance with Section 23-A of the Act. Neither Clause (1) nor Clause (2) of Section 12 of the Amending Act of 1983 goes to indicate or mean that where the landlord wants to proceed under Section 23-A, as inserted by the Amending Act of 1983, the suit pending in the Civil Court has to be exclusively on the ground of bona fide requirement. If that were to be the meaning or construction, the words 'withdraw the suit in relation to said grounds' in Sub-section (2) would be wholly redundant. The words 'withdraws the same in relation to such reliefs' in Sub-section (1) of Section 12 of the Amending Act of 1983 also go to support the view, that we have taken.

14. As a result of the discussion aforesaid, we are of the opinion that Sub-section (1) of Section 12 of the Amending Act of 1983 relates to all those suits for eviction of tenants, wherein the grounds of eviction include the grounds of bona fide

requirement of accommodation and unless the landlord withdraws the grounds of bona fide requirement in relation to the relief of eviction, such suits shall be heard and disposed of by the Civil Court as if the Amending Act of 1983 had not been passed. Sub-section (2) of Section 12 of the said Amending Act enables the landlord, who wishes to evict a tenant exclusively on the ground of bona fide requirement under Section 23-A, which is in Chapter III-A as inserted by the Amending Act of 1983, and in his suit pending in the Civil Court there is also a ground of eviction as provided under Clause (e) or Clause (f) of Sub-section (1) of Section 12 of the Act, as it stood prior to the Amending Act of 1983, then the landlord may withdraw the suit in relation to the said ground for eviction and proceed against the tenant in accordance with Section 23-A of the Principal Act. The language of Sub-section (2) of Section 12 of the Amending Act cannot be taken to mean that the suit pending in the Civil Court has to be exclusively on the grounds of bona fide requirement. This sub-section merely permits that if an eviction suit is pending in the Civil Court on different grounds including the ground of bona fide requirement, then if the, landlord wishes to evict the tenant on the: ground of bona fide requirement, he may withdraw the suit in relation to the ground of bona fide requirement with leave of the Court and proceed against the tenant in accordance with Section 23-A in Chapter III-A, which has been inserted by the Amending Act of 1983.

15. Excepting for the question as to the meaning of sub-sections (1) and (2) of Section 12 of the Amending Act of 1983, which the Division Bench in its referring order wanted to be considered, no other question was raised before us. The case by now listed before the learned Single Judge along with this opinion.