

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4312 OF 2015
WITH
CIVIL APPLICATION NO.1771 OF 2015

Abdul Karim Hussain Navlur.] ... Petitioner

Versus

Shaikh Javed Noor Mohamad and Ors.] ... Respondents

Mr. K. R. Tiwari for Petitioner.

Mr. V. B. Tapkir for Respondent Nos.1 and 2.

CORAM :- M. S. SONAK, J.

DATE :- JULY 15, 2015

P. C. :-

1. This petition challenges orders dated 09/02/2012 and 06/01/2015 made by the Trial Court and the Appeal Court ordering eviction of the Petitioner from the suit premises on the ground that the same are required reasonably and *bona fide* by the Respondent-landlord.

2. The material on record indicates that the landlord presently resides on the first floor of the building in which the suit premises are located. The premises occupied by the landlord admeasures around 600 sq.ft. The landlord resides therein along with

his two sons who are of marriageable age. The suit premises are on the ground floor and the same admeasures around 200 sq.ft. The two Courts have recorded concurrent findings of fact that the suit premises are required by the Respondent-landlord reasonably and *bona fide*, as the landlord's sons are of marriageable age and after marriage, would naturally require additional premises to stay along with their families. There is no perversity or error of jurisdiction in the record of such findings.

3. The two Courts have also recorded a finding that the Petitioner has alternate premises admeasuring around 58.15 sq.meter. It is the case of the Petitioner herein that the said premises belong to his son. The record, however, indicates that the said premises are in the joint name of the Petitioner and his son. The Petitioner is a retired government servant and therefore it is not unreasonable to proceed on the basis that the Petitioner jointly owns the said premises along with his son. In any case, the findings recorded, cannot be said to be perverse. This aspect has rightly been taken into consideration by the two Courts on the aspect of comparative hardship.

4. In the exercise of writ jurisdiction, this Court exercises only supervisory jurisdiction and not appellate jurisdiction. Accordingly, it is not for this Court to assess or reassess the entire material on record as if it were an Appellate Court. In the present case, it cannot be said that the findings of fact concurrently recorded by the two Courts suffer from any perversity or jurisdictional error.

5. Accordingly, no case is made out to interfere with the impugned order. This Writ Petition is dismissed. There shall be no order as to costs.

6. In view of the dismissal of this Writ Petition, the Civil Application does not survive. However, as stated by the Respondents in their Affidavit in reply dated 11/07/2015, the Respondents to hand over to the Petitioner all the articles as mentioned in the panchanama drawn at the time of taking over possession of the suit premises through the process of execution, within a period of two weeks from today.

7. At this stage, Mr. K. R. Tiwari, learned Counsel for Petitioner, prays for stay. This prayer, at the present stage, is infructuous. This is because during the pendency of this petition, the eviction decree has already been executed and the Petitioner has lost the possession of the suit premises. In fact, by Civil Application No.1771 of 2015, the Petitioner had applied for restoration of possession. Accordingly, it is not possible to accede to the prayer for stay, at this stage. The said prayer is therefore rejected.

(M. S. SONAK, J.)