

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CIVIL REVISION APPLICATION NO. 29 OF 2016**

Abdul Rasheed s/o Haji  
Mohammad Hussain Kandhari ..... **APPLICANT**

**V E R S U S**

Govindrao s/o Shriniwasrao Dhepe  
- died Thr. L.Rs. & Ors. .... **RESPONDENTS**

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Mr. H.I.Pathan, Advocate for applicant.

Mr. A.A.Kokad, Advocate for R.Nos. 1/1 to 13.

Mr. A.A.Mukhedkar, Advocate for R.No. 2.

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**CORAM : T.V.NALAWADE, J.**

**DATE : 20<sup>th</sup> APRIL, 2016**

**ORAL ORDER :-**

. The proceeding is filed to challenge the Judgment and Decree of R.C.S. No. 458/2001 which was pending in the Court of the Civil Judge [Sr. Division], Nanded and also the Judgment and Decree of R.C.A. No. 181/2012 which was pending in the District Court, Nanded. The Suit filed for eviction on the ground of bonafide requirement under the provisions of Section 16 (1) (g) of Maharashtra Rent Control Act is decreed in favour of the respondent. Both sides are heard.

2. The suit property is shop property having size 93 x 19.5 ft. It is the case of the plaintiff that the suit property was given in possession of the defendant on 01/12/1988 on monthly rent of ₹ 1,500/-. The defendant is running grocery shop in the suit premises. It is the case of plaintiff that he wants to do the business of goldsmith and for that he needs the suit premises. It is the case of the plaintiff that he has 4 children and he is required to take care of his family and old father and so he wants to do business to earn for livelihood. It is contended that he has no other premises and the defendant is having properties like plot in CIDCO, 2 shops at Bagwan galli and other property and so no hardship will be caused to the defendant if decree of eviction is given.

3. The defendant contested the matter by filing Written Statement. He denied that the plaintiff requires the suit shop for running business. He denied the other aforesaid contentions.

4. Both sides gave evidence which is mainly oral evidence. On the basis of the oral evidence, the Courts below have held that the defendant owns 2 shops which are given on rent basis and the defendant can shift his business there. The Courts below have held that the defendant is having one shop at New Mondha and, there, also he can shift the business. It is held that there are other properties including the bungalow of the defendant and so no hardship will be caused to the defendant if

eviction order is made against him. These findings are given on the basis of vital admissions given by the defendant in the cross examination and also the admissions given by his witness in the evidence.

5. Learned counsel for the applicant/respondent submitted that in view of the evidence given by witness of the defendant, inference is possible that plaintiff has shop in Sarafa lane and he is already in the business of goldsmith. This Court has carefully gone through the oral evidence. No employee of Sarafa Association is examined. No record of any premises is produced to show that plaintiff is either owner or occupying any premises as lessee where he is doing business of goldsmith or he can do the business of goldsmith. Some photographs are produced but they are not duly proved. The defendant has given specific admission during cross examination that the plaintiff needs the suit premises and suit premises is the most suitable premises for the business of goldsmith. He has admitted that he is owner of shops and they are given on rent basis by him.

6. In view of the admissions given by the defendant and as there is sufficient material to show that no hardship will be caused to the defendant, the Trial Court has given the decree of eviction. No more material was pointed out due to which other inference was possible.

7. Learned counsel for the respondent placed reliance on some observations made by this Court in the case reported as 2015 (11) LJ Soft – 39 [Smt. Shalini Wamanrao Korade & Ors. Vs. Shankar Ningusa Solanki] . The learned counsel submitted that in view of the size of the premises, decree in respect of part of the suit premises can be given. This submission is not at all acceptable. There are vital admissions given by the respondent which are already quoted.

8. In the result, Civil Revision Application stands dismissed. In view of dismissal of Civil Revision Application, C.A. No. 2663 of 2016 does not survive and stands disposed of.

**[T.V.NALAWADE, J.]**

KNP/C.R.A. 29.2016.odt

Time of one month granted to petitioner to vacate the suit premises.

sd/-

**[T.V.NALAWADE, J.]**