

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE SIDE JURISDICTION*

***CIVIL REVISION APPLICATION NO. 85 OF 2015***

M/s Damodardas Ganapatdas Sugandhi & anr. .. Applicants  
Vs

Madhukar Rajaram Pethe

(Since deceased by his Legal Representatives

1 A. Smt.Mangala Madhukar Pethe & ors. .. Respondents

Mr.Kamlesh Ghumre a/w Ms.Sonali Jadhav, for Applicants.

Mr.G.S.Godbole a/w Ms.Shruti Tulpule and Neha Valsangkar, for Respondents.

***CORAM : N.M.Jamdar, J.  
Wednesday, 30 November 2016.***

***Oral Order :***

By this Revision Application, the Applicants challenge the concurrent Judgment and orders of the learned Civil Judge Junior Division Nasik and District Judge Nasik whereby suit filed by the Respondent-landlord on the ground of bonafide requirement was decreed and the appeal filed by Applicants was dismissed.

2. The suit was instituted in the year 1975. The proceedings were remanded to the trial Court and upon remand the learned Civil Judge, upheld the case of the Respondent-landlord for bonafide

requirement and decreed the suit by Judgment and Order dated 30 August 2007. The appeal filed by Applicants was dismissed on 29 December 2014 by the learned District Judge, Nasik.

3. Heard learned counsel for the parties. The learned counsel for Applicants submitted that the Respondent-landlord has not discharged his initial burden of proving the bonafide requirement and therefore, no decree could have been passed. He relied upon the decision of the learned Single Judge in the case of *Amritsingh Sardarsingh Suri & others Vs. Shri Khanderao Pandurang Aryamane and another* 1979 Bom. R.C. 209. The learned counsel for Respondents pointed out the amended portion of the plaint and contended that both the Courts have rightly held that bonafide requirement has been proved.

4. In paragraph 3A to 3E of the plaint the Respondent-landlord has narrated the number of family members and the requirement in detail. It is stated that the Respondent-landlord has twelve members in the family, out of which are three sons who are desirous of starting their own business. It is stated that the business was initially of money-lending and now the Respondent-landlord wishes to start jewellery business. One of the sons wants to start the business of electronics. It is also contended that an office is required in view of the business of the Respondent-landlord of propertydevelopment. This need has been accepted by both the Courts by appreciating the evidence on record. Once this need of the Respondent-landlord has

been established then it cannot be said that the Respondent-landlord did not cross the first threshold of establishing the bonafide need. The contention of the learned counsel for Applicants that one of the business proposed to be started by the Respondent-landlord is not suitable for the locality, cannot be accepted as it is the choice of the landlord to use the premises owned by him. The learned counsel for Respondents has placed on record a sketch of the suit premises to show that two of the suit premises have access from the road. The need pleaded by Respondent-landlord, seeking possession of the shops on the ground floor and one on the first floor is rightly held to be reasonable.

5. As far as the issue of comparative hardship is concerned, the Courts have recorded a finding that Applicants did not make any effort to look for the premises even though the suit is filed in the year 1975. Contention of the learned counsel for Applicants is that the premises will have to be in the same area as in this locality business of goldsmith is being carried out, is a matter of additional advantage to the Respondents, but on this ground the need of the Respondent-landlord cannot be nullified. The learned counsel for Respondents has also drawn my attention to the findings of the learned trial that the family of Applicants owns a building where there are certain commercial premises available.

6. In the circumstances, the appreciation of evidence by both the Courts cannot be stated to be perverse so as to interference in

Revisional Jurisdiction of this Court. Revision Application is rejected.  
No prayer for grant of any further protection was made.

*(N.M.Jamdar, J.)*