

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 6005 OF 2016

(Shri Ashok s/o Gowardhandas Katara (since deceased) through his L.Rs. Smt. Mala wd/o Ashok
Katara and another..vs.. Shri Kamruddin s/o Abdul Rasool Lapat and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 03-03-2017

Civil Application No.510/2017.

For the reasons stated in the application, the applicants are permitted to come on record as petitioners substituting themselves in place of original petitioner.

The civil application is allowed accordingly.

Writ Petition No.6005/2016.

Heard Shri R.M. Sharma, Advocate for the petitioners.

The tenants have challenged the judgment and decree passed by the subordinate Courts concurrently upholding the claim of the landlord for decree for eviction on the ground that the suit premises are required by the landlord for *bona fide* use and occupation. The trial Court has exhaustively considered the evidence on record and has found that the landlord has substantiated his claim. The District Court has independently considered the material on record. In

paragraph No.34 of the judgment, the learned District Judge has recorded that Taher (son of landlord) was in Dubai, has shifted to Nagpur because of old age and illness of his father, he is jobless, Bohara Community Trust has agreed to provide financial assistance to him to start business of paint products and all these facts are proved by the documentary evidence on record. In paragraph No.37 of the judgment, the learned District Judge has examined the fact as to whether the landlord can carry out the proposed business in the premises and has recorded a finding in favour of the landlord. In paragraph No.40 of the judgment, the learned District Judge has examined the issue of inconvenience and hardships and after recording a finding that the tenant is having his own godown, it is recorded that greater hardship will be caused to the landlord if decree for eviction is not granted. In paragraph No.41 of the impugned judgment, the challenge raised by the tenant regarding provisions of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 is dealt with.

I find that the conclusions of the subordinate Courts are based on proper appreciation of evidence on record. The petitioners/tenants have not been able to point any any patent illegality or perversity in the impugned judgment. I see no reason to interfere with the impugned judgment.

The judgment and decree is also challenged on the ground that the tenants are in arrears of rent, however as the decree is being maintained on the ground of requirement of suit premises for bonafide occupation, I have not examined the challenges raised by the petitioners/tenants to the findings recorded by the subordinate Courts on the ground of arrears of rent.

JUDGE

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