

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

**CIVIL REVISION APPLICATION NO.64 OF 2016**

Rajesh s/o Kunjbihari Sahu

-vs-

Amit s/o Vijaykumar Ruthia and anr.

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders.

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Shri S. V. Bhutada, Advocate for applicant.

Shri R. M. Sharma, Advocate for non-applicant.

**CORAM : A.S.CHANDURKAR, J.**

**DATE : January 13, 2017**

Challenge in this revision application is to the decree for eviction passed by the trial Court under provisions of Section 16 (1)(g) of the Maharashtra Rent Control Act, 1999 (for short, the said Act). This decree has been confirmed by the appellate Court in view of its judgment dated 18/07/2015.

Shri S. V. Bhutada, the learned counsel for the applicant submitted that both the Courts erred in directing eviction of the applicant as there was no sufficient evidence on record to indicate bonafide need of the landlord. It was submitted that the requirement of Section 16(2) of the said Act of considering the aspect of partial eviction has also not been gone into. It was then submitted that the direction to pay mesne profits from the date of

the suit is also unwarranted as said direction is based on issuance of notice of the landlord when infact no such notice was ever issued. Infact, the proceedings had been remanded by the appellate Court and therefore said order could not be applied to the prejudice of the applicant. Reliance was placed on judgment in *Gyanchand s/o Paramanand Jain and ors. vs. Wamanrao s/o Vyankatrao Shinde 2010(6) Mh.L.J. 561.*

Shri R. S. Sharma, the learned counsel for the non-applicant supported the impugned order. It was urged that both the Courts have after considering the entire evidence on record come to the conclusion that the bonafide need of the landlord had been made out and that greater hardship would be caused if the eviction was not directed. The acquisition of additional premises during pendency of the proceedings did not satisfy the need of the landlord and therefore there was no case to interfere. The direction to determine mesne profits was not challenged in the appeal nor was a ground raised in the revision application. Hence as there was no merit in the application, same was liable to be dismissed.

The learned counsel for the parties have been heard at length. I have perused the material on record. Both the Courts have concurrently held that the premises that the landlord was

occupying were insufficient for carrying on business as well as for residence. On that basis it has been concluded that a case of bonafide need has been made out. After considering the admission of the applicant that since filing of the proceedings, the applicant did not attempt to obtain alternate premises, issue of hardship was answered against him. Moreover, considering the fact that the suit premises comprises of only 150 sq. ft. area with loft, question of partial eviction in the facts of the present case would not satisfy the need of the landlord. Hence ratio of the judgment relied upon by the learned counsel for the applicant cannot be made applicable to the facts of the present case.

As regards the direction with regard to grant of mesne profits is concerned, said direction was not challenged before the appellate Court nor has said direction been challenged in the present revision application. Hence at this stage, the applicant cannot be heard in that regard.

As I do not find any jurisdictional error committed by both the Courts by ordering eviction of the applicant which decree is already executed, the revision application stands dismissed with no order as to costs.

**JUDGE**