

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.586 OF 2017

Rajendra Ravindra Surve ...Applicant
vs.
Deelip Govind Agre and Others ...Respondents

Mr. S.B. Shetye, for the Petitioner
Mr. Shashank Mangale, for the Respondent.

CORAM : M. S. SONAK, J.

DATE : DECEMBER 11, 2018

P.C.:

- . Heard Mr. Shetye, learned counsel for the Applicant.
2. The challenge in this Civil Revision Application is to the judgment and decrees dated 4th April, 2016 and 5th May, 2017 made by the trial Court and the Appeal Court ordering the eviction of the Applicant on the ground that the Respondent-landlord requires the suit premises reasonably and *bonafide*.
3. Mr. Shetye, learned counsel for the Applicant submits that in the suit seeking eviction the pleadings were that the suit premises are required for the educational needs of the Respondent's son. He points out that in the course of evidence, the Respondent has admitted that the educational needs of the son no longer survive, since the son has already obtained degree in the

Engineering. Mr. Shetye therefore submits that this was a vital consideration which has been overlooked by both, the trial Court as well as Appellate Court. He therefore, submits that the impugned judgment and decrees warrants interference.

4. Mr. Mangale, learned counsel for the Respondent defends the impugned orders on the basis of reasoning set out therein.

5. From the pleadings, it is cleared that the suit was instituted not only on the basis of educational needs of the Respondent's son, but also on the basis of the need of the Respondent himself.

6. The Appeal Court has taken into consideration, the Respondent's deposition that his son has already completed his education but maintained the order made by the trial Court on the ground that there were both, pleadings as well as evidence to sustain the finding that the suit premises were reasonably and *bonafide* required by the Respondent himself. The record indicates that the Respondent was himself an employee of the Court at Ratnagiri. The Respondent had deposed that he was required to stay in his ancestral property which is about 9 km away and transportation to and fro was seriously inconvenience.

7. There are concurrent finding recorded by the two Courts on this aspect. There is no perversity demonstrated in the record of such concurrent finding of the fact. The Apex Court has time and again held that the landlord is the best judge in such matters and it is not the tenant or for that matter even the Court to dictate which of the premises are most suitable to the needs of the landlord. In this case, two Courts also considered the issue of comparative hardship. As noted earlier, there is no perversity recorded by the Courts so as to warrant interference under 115 Code of Civil Procedure.

8. For the aforesaid reasons, this Civil Revision Application is liable to be dismissed and is hereby dismissed.

9. There shall be no order as to costs.

(M. S. SONAK, J.)