

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

**CIVIL REVISION APPLICATION NO.65 OF 2019**

Chandrakant s/o. Nimba Chaudhari ..Applicant

Vs.

1. Jankiram s/o. Talele
2. Sudhakar s/o. Nimba Chaudhari
3. Shalini Shashikant Chaudhari ..Respondents

----

Mr.B.R.Kedar, Advocate for applicant

Mr.S.S.Bora, Advocate h/f. Mr.Sk. Naseer, Advocate for respondent no.1

**CORAM : R.G. AVACHAT, J.  
DATE : DECEMBER 22, 2021**

**ORDER :-**

The challenge in this Revision Application is to the judgment and decree, directing delivery of possession of the suit premises to the landlord, respondent no.1 herein, on the ground of default and *bona fide* requirement under the provisions of the Bombay Rents, Hotel and Lodging House Rates (Control) Act, 1947 ("Rent Act", for short), passed on 31.12.2007 by learned IIIrd Joint Civil Judge, Junior Division, Bhusawal, confirmed by learned District Judge-1, Bhusawal, Dist. Jalgaon, in Regular Civil Appeal No.118 of 2014. As such, it is a case of concurrent findings of fact.

2. Heard learned counsel appearing for the parties.

3. Mr.B.R.Kedar, learned counsel for the applicant/tenant, would submit that both the Courts below have not appreciated the evidence in its right perspective. As regards default in payment of rent is concerned, learned counsel would submit that respondent no.1-landlord has, in his cross-examination, admitted in no uncertain terms, to have refused the rent sent by money order. Learned counsel would meant to say that the applicant-tenant had, immediately after receipt of the statutory demand notice, remitted the amount towards arrears of rent. According to him, the cause of action of the suit on the ground of default, therefore, did not arise. On the question of *bona fide* requirement and resultant hardship, he took this Court to the cross-examination of the respondent-landlord, to submit that all the four sons of landlord have been staying away in their respective premises. Nine rooms have been in possession of the respondent-landlord. One of them is on ground floor. The landlord can shift his residence from the upper floor to ground floor premises. He has also admitted the applicant-tenant to have no alternative premises in Bhusawal. If he was required to vacate the premises, he (tenant) would be a person to suffer greater hardship.

Learned counsel, therefore, urged for setting aside the impugned decree.

4. Mr.S.S.Bora, learned counsel for respondent no.1-landlord, placed reliance on the judgment of this Court in the case of **Mahadeo Gangadhar Kulkarni and ors., Vs. Vasant Deoram Gawate and ors., MANU/MH/1134/2019**, to submit that the applicant-tenant to have not been regular in making payment of the amount of rent. On the question of reasonable and *bona fide* requirement, he would submit that it is none of the business of the applicant-tenant to dictate the respondent-landlord how to make use of his own premises. Learned counsel invited attention of this Court to the evidence indicating the applicant-tenant to have his two-room premises at Bhusawal itself and same has been given by him to his brother as a permissive user.

5. Considered the submissions made by learned counsel for the parties. Perused the judgments of both the Courts below.

6. Although the applicant-tenant may have a good case to upset the decree granted on the ground of default in payment of rent, there is no reason for this Court to upset the decree granted on

the ground of *bona fide* requirement of the suit premises. The landlord and his wife are septuagenarian persons. They have been staying in upper-stair premises. The ground floor two-room premises in possession of the applicant-tenant have been required by them for their own occupation, since it had been difficult for them to negotiate with the up-stair premises due to old age. The respondent-landlord has four sons and three married daughters. All the sons have been staying in their respective premises away from the suit premises. It is, however, not that the sons are on visiting terms with their parents. The applicant-tenant cannot dictate the respondent-landlord how to make use of his own premises.

7. Section 17(2) of the Rent Act is there to take care of the concern of the applicant-tenant that if, on vacating the suit premises, the landlord does not occupy the same or lets it to someone else, the applicant-tenant would be entitled to move the Court to have him reinducted therein. There is evidence to indicate the applicant-tenant to be a man of means. Town Bhusawal is a Taluka place. The applicant-tenant and his wife hold two house sites at Bhusawal itself. He has also admitted to have owned two-room premises at Bhusawal itself, wherein his brother has been staying

with his permission. As such, the applicant-tenant will not suffer any hardship. Both the Courts below have concurrently held the respondent-landlord to have made out a case for grant of decree of possession of the suit premises. The findings recorded by both the Courts below on the ground of reasonable and *bona fide* requirement are consistent with the evidence in the suit. It cannot be said that the decree impugned herein is perverse one. As such, no case is made out for interference with the impugned decree.

8. In the result the Revision Application fails and the same is dismissed.

[R.G. AVACHAT, J.]

KBP