

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.134 OF 2021

RAGHUVIR VASUDEV DEULI ... Petitioner.

VS

DHIRESH NARAYAN
PEDNEKAR AND 3 ORS. ... Respondents.

Mr. Ashwin D. Bhobe, Advocate for the Petitioner.

Mr. Joaquim Godinho with Mr. Sadanand Manoj Jalmi, Advocates for Respondents No.2, 3 and 4.

Coram: M.S. SONAK, J.

Date: 22nd June 2021

P.C.:

Heard Mr. A.D. Bhobe for the Petitioner and Mr. Godinho for the Respondents.

2. The challenge in this petition is to the orders made by the Civil Judge Junior Division as well as the District Judge, North Goa i.e. the original and appellate authorities ordering the eviction of the Petitioner from the suit premises on the ground that the Respondent landlord require such premises for their bonafide use and occupation.

3. Mr. Bhobe the learned Counsel for the Petitioner submits that the two Courts have not recorded any firm finding of fact that the landlord indeed requires such additional space and that such requirement is bonafide. He submits that the evidence on record at the highest makes out a case of some “desire” as opposed to a bonafide need or requirement.

He submits that the tenanted premises admeasure only 30 square meters, whereas the landlords already have in their possession the adjacent premises admeasuring 120 square meters. He submits that there is no discussion on how the premises already occupied by the landlord are not sufficient for the landlord and his family members. He submits that in the absence of any evidence and clear findings on these crucial aspects, the two Courts, did not have the jurisdiction to order the eviction of the Petitioner by resorting to the provision of section 23 (3) of the Goa Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968 (said Act). Mr. Bhobe, therefore, submits that this petition be admitted and interim relief be granted.

4. Mr. Godinho the learned Counsel for the landlord submits that there is ample evidence on record to satisfy the jurisdictional parameters. He points out that the landlord has deposed and there is evidence on record that the landlord has four sons out of which, three are married. He pointed out that even the fourth son was on the verge of getting married. He pointed out that on account of the increasing size of the landlord's family, there was absolutely nothing unreasonable of the landlord requiring the additional space of 30 square meters. He submits that there are concurrent findings of fact based on the evidence on record that may not be interfered with by this Court in the exercise of its extraordinary jurisdiction.

5. Having considered the rival contentions and perused the material on record, I am satisfied that no case has been made out to interfere with

the impugned orders in the exercise of extraordinary jurisdiction under Article 227 of the Constitution of India.

6. Both the authorities have recorded clear findings of fact that the landlord has established his requirement or need for the additional space. Both the authorities have recorded findings that such requirement or need is bonafide. The findings are borne out of the evidence on record. No perversity is demonstrated. Even otherwise, the evidence on record establishes that the landlord has four sons and it is quite natural that the landlord wishes to expand his business activities with the help of these four sons. Therefore, there is nothing unreasonable in the landlord projecting his need for additional space of 30 square meters. The two Courts have considered the evidence on record in its proper perspective and have also applied the correct legal parameters which are to be applied in such matters.

7. In matters of this nature, it is not for the landlord to establish that he has some dire need, but it is sufficient for the landlord to establish that he has a need or a requirement for additional space and further, such need or requirement is not malafide but bonafide. The landlord in the present case has succeeded in establishing this and therefore, there is no case made out to interfere with the concurrent findings of fact recorded by the two authorities.

8. In *Raghunath G. Panhale (dead) by Lrs. Vs. Chaganlal Sundarji and Co.*¹, the Hon'ble Supreme Court has held that the test of "bonafide need or requirement" cannot be equated with "dire or absolute or compelling necessity". Similarly, a reasonable and bonafide

¹ (1999) 8 SCC 1

requirement is something in between a mere desire or wish on one hand and a compelling or dire or absolute necessity on the other. The Hon'ble Supreme Court has held that such need may be a present need or may be a reasonable proximity in the future.

9. Applying this principle to the facts borne out of the evidence in the present matter, there is no case made out to interfere with the concurrent findings of fact or for that matter, the appreciation of the legal position, by the two authorities.

10. No other point was urged in this matter and therefore, this petition is hereby dismissed. There shall be no order as to costs.

M.S. SONAK, J.

jfd/-