

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

CIVIL REVISION APPLICATION NO. 09 OF 2022

1. Jayashri Narayan Joshi
Age: 52 years
Occu:- Household,
R/o Mochigalli Ahmednagar

2. Rajashri Badrinarayan Nabriya
Age:- 40 years, Occ:- Household,
R/o Mochigalli Ahmednagar

... Applicants
(Orig. Defendants)

Versus

1. Ravi Subhash Sakhala
Age:- 38 years, Occu:- Nil,

2. Avinash Subhash Sakhala
Age: 37 years, Occu:- Nil,
R/o Parshakhunt,

... Respondents
(Orig. Plaintiffs)

....
Mr. S. R. Andhale, Advocate for applicants
Mr. Satyajit S. Bora, Advocate for respondents
....

CORAM : R. G. AVACHAT, J.

DATED : 08th JULY, 2022

ORDER :-

. The challenge in this revision application is to a decree passed by the Court of Civil Judge Junior Division, Ahmednagar in Regular Civil Suit No. 753 of 2012 and affirmed the same by Ad-hoc

District Judge-1, Ahmednagar in Regular Civil Appeal No.119 of 2020. Vide impugned judgment and decree, the applicants herein (original defendants) have been directed to vacate the suit premises. It was the suit filed for eviction of the applicants herein on the ground of *bona-fide* requirement.

2. Heard.

Learned Advocate for the applicants would submit that the requirement of the landlords/respondents was neither reasonable nor *bona-fide*. Both the Courts below have ignored the evidence that the respondents-landlords have their premises to reside in. The applicants are the daughters of the original tenant. They have been residing in the suit premises and run a mess to earn their living. If they are required to vacate the suit premises, greater hardship would be caused to them. The learned Advocate took me through the relevant evidence to ultimately urge for allowing the revision application. He also relied on the following two authorities:

- (i) *Udayan Vinayak Modak and others vs Madhavi Chandrashekhar Kale and others – 2019 (5) All M.R. 828;*
- (ii) *M/s. Vivek Trimbakrao Paturkar vs Sow Sulochanabai Gangadharrao Wattamwar – Judgment in CRA No.91 of 2021 High Court of Bombay (Aurangabad Bench).*

3. The learned Advocate for the respondents – landlord on the other hand, submit that it is a case of concurrent findings of fact. This Court in exercise of revisional jurisdiction cannot reappreciate the factual matrix, except if a case of perversity made out. He too took this Court to certain evidence to ultimately submit that no case for admission of this revision application is made out.

4. Considered the submissions advanced. It is a case of concurrent finding of fact. The respondents landlord required the suit premises for their own occupation. The applicants-defendants in their oral evidence have admitted that the respondents – landlord have been residing in one room premises along with their spouses and children, as well. The premises they have been residing in, belonged to their father and uncle. It therefore cannot be said that the said premises are available for the respondents – landlord to reside in as of right. True, the suit premises has been given to them by their father under a registered deed of gift. They have, thus, become owners of the suit premises. Their claim that the suit premises are required for their residence, therefore, cannot be doubted or considered to be *mala-fide*. Reliance on the judgment of this Court in the case of *M/s. Vivek Trimbakrao Paturkar* (supra)

would be of no assistance of the applicants herein since the facts thereof indicate that the landlord therein had very many properties. The landlord had not disclosed the existence of those properties in his plaint. The Court, on appreciation of the factual matrix therein, observed the plaintiff therein to have no case of *bona-fide* requirement.

The facts in the case of ***Udayan Vinayak Modak*** (supra) would indicate that it was the concurrent finding of facts recorded by both the Courts below, negating the claim of the landlord. The Court, therefore, in exercise of jurisdiction under Article 227 of the Constitution of India, did not interfere with the judgment and decree impugned therein.

5. It is reiterated that, here is a case of concurrent finding of fact, holding the respondents – landlord to have made out a case of *bona-fide* requirement. The evidence indicate that one of the applicants is residing at her matrimonial home at Ichalkaranji. Nothing was shown on their behalf to suggest that the greater hardship would be caused to them by passing the decree. Even it appears that the applicants did not make efforts to secure alternative premises. On the contrary, there is evidence to indicate that the

applicants surrendered two room premises in favour of another landlord who was the owner thereof.

6. As such, the decree impugned herein warrants no interference. The Civil Revision Application, therefore, stands dismissed.

[R. G. AVACHAT, J.]

SMS