

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO. 341 OF 2022

Paramjeet Singh Pardeshi	...Applicant
Versus	
Devinder Kaur Saini & Ors.	...Respondents

Mr. G. S. Godbole a/w. Adv. Pradeep Salgar i/b. Adv. Rahul Soman
for the Applicant.

Mr. Maulik K. Tanna for the respondent nos. 1, 3 & 5.

CORAM : NITIN W. SAMBRE, J.

DATED : 2nd AUGUST, 2022

P.C.:

1. This revision is by the tenant who has suffers concurrent findings in eviction proceedings.
2. The respondents have initiated RAE Suit No. 1139/2045 of 2004 for eviction on the ground that the present applicant has failed to clear the arrears for a period from April, 1997 to April 2004 @ Rs.350/- per month. In spite of the demand notice, the applicant has made alterations in the suit premises and the non-applicants/plaintiffs are in need of the suit premises for bonafide use.
3. The Trial Court vide its judgment and order dated 30/07/2016 decreed the said suit. The appeal carried out by the present

applicant-defendant/tenant came to be dismissed vide judgment and order dated 23/12/2021, as such this revision.

4. The contentions of Mr. Godbole, learned counsel appearing for the applicant/defendant are both the Courts below have committed error in recording a finding on the issue of bonafide need in favour of the non-applicants i.e. original plaintiffs. So as to substantiate his contentions, he has invited my attention to the pleadings in support of such plea for eviction of the present applicant on the ground of bonafide need. He would urge that except the plaintiff no. 1 rest of the parties are residing outside Mumbai and the bonafide need is claimed to be based on their requirement i.e. their visit to Mumbai. He would also invite my attention to the fact that the prayer of the non-applicants/plaintiffs for bringing legal heirs of some of the plaintiffs i.e. plaintiff nos. 2, 4 and 6 was turned down. The Court below ought to have been sensitive to the fact that once the suit at the behest of the such plaintiffs is dismissed, the ground of hardship and the bonafide needs ought to have been answered in favour of the present applicant. In addition, he would urge that the applicant, is a driver by profession and has a larger family to maintain out of his limited earnings.

5. He would as such urge that on the issue of hardship as such ought to have been considered and answered in favour of the applicant as non-applicants need premises only for an occasional use as and when the legal heirs of other plaintiffs visit Mumbai from London, Chandhighar, Delhi etc.

6. Mr. Godbole, invited my attention to the findings as regards the default in payment of arrears. According to him, it was a regular practice to pay rent to the son of the landlady i.e. plaintiff no. 1, which fact is duly proved and accepted by the Appellate Court. In this background, the applicant has come out with a case that there was no default even for period from April, 1997 to April 2004.

7. In the aforesaid background, he would urge that it was for the plaintiffs to prove the fact that the rent was not accepted by the son of the landlady i.e. the plaintiff no. 1. Even otherwise, according to him the applicant has demonstrated his bonafide in the matter of payment of rent by moving before the Appellate Court for the deposit of the same, which was duly permitted. In this background, he would urge that the Court has failed to consider very object of the provisions of section 15 of the Maharashtra Rent Control Act, 1999.

8. The Counsel for the respondents/plaintiffs would support the orders impugned. According to him, apart from concurrent findings, the Trial Court and the Appellate Court has duly appreciated the pleadings and evidence in support of the findings of bonafide requirements of non-applicants/plaintiffs of the arrears of rent and the conduct of the applicant of not adhering to the provisions of sub-section 3 of section 15 of the Act. He would as such urge that the Courts below is justified in recording the findings in favour of the non-applicants thereby directing the eviction of the applicants.

9. I have considered the aforesaid submissions.

10. The claim put forth by the non-applicants / plaintiffs was duly objected by the present applicant by filing written statement at Exhibit-7 & Exhibit-18.

11. In the backdrop of the rival claim, issues were framed at Exhibit-9 which reads as thus:

Sr. No.	Issues	Findings
1	Whether the plaintiffs prove that the defendants failed and neglected to pay arrears of rent for the period from April, 1997 to 30th April, 2004 @ Rs.350/- p.m. amounting to Rs.29,750/- within	In affirmative

	statutory period even after demand notice dated 10.07.2004	
2	Whether the plaintiffs prove that the defendant has made additions and alternations of permanent nature in the suit premises?	In negative
3	Do the plaintiffs prove that the suit premises are reasonably and bonafide required by them for occupation by themselves?	In affirmative
4	Whether greater hardship would be caused by passing the decree than by refusing to pass it?	In negative
5	Whether the suit is bad for non joinder of Shri Ranjit Singh Lamba as necessary party to the suit?	In negative
6	Whether the plaintiff are entitled to recover possession of the suit premises?	In affirmative
7	Whether the plaintiffs are entitled to permanent injunction as prayed?	In negative
8	What order and decree	As per final order

12. It appears that the plaintiffs examined Devinder Kaur i.e plaintiff no. 1. at Exhibit 45 and also produced documents viz. certificate of registration Exhibit-48, power of attorney executed by plaintiff nos. 2 to 6 and one Ranjit Singh Lambha at Exhibit-49 and the judgment in RAP Suit No. 1619 of 1997 at Exhibit-50, the General power of attorney Exhibit-53, the postal acknowledgment at Exhibit-54 were duly produced.

13. As far as the defendants are concerned, applicant/defendant examined himself vide Exhibit -79 and relied on the documents like ration card at Exhibit-81, the rent receipts at Exhibit-82 collectively and other allied documents.

14. It appears that while analyzing the claim of the non-applicants/plaintiffs, after appreciating the pleadings and evidence on record, specific findings are recorded that the present applicant was in arrears of rent as for period from April, 1997 to April, 2004 the amount was not paid. As regards the alterations to the premises is concerned, the said issue was answered in favour of the applicant.

15. The issue of bonfide needs was duly considered and answered in favour of the non-applicants/landlords as it is observed that the non-applicants will suffer greater hardship than the present applicant.

16. The Appellate Court while re-appreciating the entire gamut of the matter has noticed that the applicant/defendant in compliance with sub-section 3 of the section 15 of the Act has not moved for deposit of arrears of rent. The said fact was considered and dealt with as neither during the pendency of the suit nor alongwith the Appeal, applicant has acted in compliance with the

mandate under the said provisions of act thereby offering to deposit the arrears.

17. The claim of the applicant on the issue of arrears of rent was that of payment of such arrears to the son of the plaintiff no. 1- original landlady. Once the applicant come out with such fact he should have substantiated the same by the documentary proof, which he has failed to.

18. Apart from above, the applicant has failed to examine the witness to prove the fact about payment of arrears of rent. That being so, both the Courts below were justified in recording the findings against the applicant on the issue of arrears of rent.

19. As regards the issue of comparative hardship and bonafide need is concerned, the plaintiff no. 1 has in categorical terms stated that the premises were required for the bonafide use as even if other plaintiffs are residing outside Mumbai, they often visit Mumbai and the present premises are short to accommodate the co-plaintiffs. No doubt, the payer of the plaintiffs for bringing legal heirs of the dead plaintiff on record was turn down, however, that by itself cannot be considered to the detriment of the plaintiff as the prayer of the plaintiffs is for eviction on the ground of bonafide need. Such bonafide need was duly established by the

oral and documentary evidence placed on record by the plaintiff no.1 who has examined herself.

20. The issue of hardship is also answered against the present applicant/defendant in favour of the original plaintiffs on the ground that the plaintiffs have a larger family to accomodate in the suit premises.

21. In wake of the aforesaid observations and in the backdrop of the appreciation of evidence and pleadings on the record, I hardly see any reason which warrants interference in the concurrent findings. No error of jurisdiction or failure to exercise of jurisdiction is noticed.

22. Civil Revision Application as such fails, dismissed.

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(NITIN W. SAMBRE, J.)