

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 3704 OF 2022

Hemant Murlidhar Mahajan (Dead) -- Petitioners
through LR's

Vs.

Madhubala w/o Kishor Agrawal & Another -- Respondents

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. J.J. Chandurkar, Advocate for Petitioners

CORAM : MANISH PITALE, J.

DATE : 6th JULY, 2022

By this writ petition, the petitioners – tenants are before this Court, challenging concurrent orders passed by the two Courts below, whereby a suit for eviction filed by the respondents / landladies stood decreed and confirmed. Although the respondents had filed a suit for eviction on three grounds i.e change of user, nuisance and bonafide need, the suit was decreed only on the ground of bonafide need. The Courts below had concurrently held against the petitioners and in favour of the respondents on the aforesaid ground of bonafide need.

2. The respondents pleaded bonafide need in respect of the requirement of the son of one of the respondents to start

business / profession in the suit premises. This was opposed by the petitioners, contending that bonafide need was not made out.

3. The learned counsel appearing for the petitioners sought to demonstrate error committed by the two Courts below by inviting attention of this Court to a purported admission made in the cross-examination of one of the respondents. It was emphasized that on a specific question put to the said witness, it was stated that a bathroom had been demolished for making an office for her son. According to learned counsel for the petitioners, this was a crucial admission, which both the Courts below failed to appreciate, particularly in the backdrop that the suit shop is admittedly located in a huge plot of land, which is owned by the respondents. The portion other than the suit shop premises is an open portion clearly available to the respondents for satisfying their bonafide need.

4. This Court has considered the aforesaid contention raised on behalf of the petitioners in the light of the discussion on the question of bonafide need in the concurrent orders passed by the Courts below. It is found that the Appellate Court while confirming the finding pertaining to bonafide need also confirmed an observation made by the Trial Court that the petitioner himself in cross-examination admitted that the respondent indeed required

the property for the business of her son. It is also found from the material on record that during the pendency of the proceedings, the son of one of the respondents was carrying out business from tenement premises.

5. It is settled law that what is to be the bonafide need of the landlord or landlady is to be projected by the said party and the Court cannot sit in judgment and opinion over the extent of bonafide need of landlord / landlady.

6. In the present case, considering the concurrent findings rendered by the Courts below on the question of bonafide need in favour of the landladies, only because of a stray admission made on behalf of one of the respondents, it cannot be said that the findings are perverse. Even otherwise, if the said purported admission is to be taken into consideration, it still does not blunt the ground of bonafide need made out from the pleadings and evidence putforth on behalf of the respondents.

7. In view of the above, this Court is not inclined to exercise its jurisdiction in favour of the petitioners. Accordingly, the writ petition is dismissed.

JUDGE