

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 8291 OF 2019

Sanjay s/o Madanchand Kashyap,
Aged about 53 years,
Occupation – Service,
R/o Swadeshashram, Behind Hotel
Amir, Jagnath Road, Gandhibagh,
Nagpur.

.... **PETITIONER**

VERSUS

Dwarkadas s/o Madanlal Bajaj,
Aged about 67 years,
Occupation – Business,
R/o Swadeshashram, Behind Hotel
Amir, Jagnath Road, Gandhibagh,
Nagpur.

.... **RESPONDENT**

Mr. S.S. Sharma, Counsel for the petitioner,
Mr. N.G. Jetha, Counsel for the respondent.

CORAM : ROHIT B. DEO, J.
DATED : 12th JANUARY, 2022

ORAL JUDGMENT :

Heard. **Rule.** With consent, the petition is heard finally.

2. The petitioner is the landlord who has instituted Regular Civil Suit 424/2014 seeking a decree of eviction.

3. The landlord amended the plaint incorporating proposal to handover shop admeasuring 200 square feet marked 'D,C,E,F' in the sanctioned map, to the defendant.

4. The tenant incorporated consequential amendment in the written statement and accepted the proposal and expressed willingness to vacate the suit property if the adjacent shop is given, as proposed by the plaintiff.

5. The learned trial Judge assumed that the dispute is settled and that only issue which would survive, is the determination of the standard rent pertaining to the new tenanted premises.

6. It is common ground that the arrangement proposed by the landlord and accepted by the tenant did not fructify.

7. It is not for the writ Court to determine who is responsible for the arrangement remaining on paper.

8. It would only be for the trial Court to look into the circumstances in which the arrangement could not be given effect to, and to draw appropriate conclusions while deciding the issues involved.

9. However, considering that it is common ground that arrangement did not fructify, the order impugned dated 05-12-2019 is set aside.
10. The suit shall proceed from the stage at which the order dated 05-12-2019 below Exhibit 1 (Annexure-J) is rendered.
11. The learned trial Judge is requested to decide the suit as expeditiously as possible, and in any event, within the next nine months.
12. The petition is disposed of, in the aforestated terms.

JUDGE

adgokar