

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO.153 OF 2023

Purshottam s/o. Laxman Pawar .. Applicant
(Original Deft.No.2)

Versus

1. Vinit Kumar s/o. Nandkishor Sahani,
2. Ghanshyam s/o. Laxman Pawar
(Since Died, through L.Rs.)
2A. Smt. Karuna w/o. Ghanshyam Pawar,
2B. Kum. Durgeshwari d/o. Ghanshyam Pawar.
2C. Digvijay s/o. Ghanshyam Pawar,
2D. Smt. Urmilabai w/o. Laxman Pawar
(Since Died, abated) .. Respondents

...

Mr. Milind K. Deshpande, Advocate for Applicant (Defendant no.2);
Mr. A. S. Bajaj i/b. Mr. Shyam C. Arora, Advocate for caveator/
Respondent-1 (Plaintiff)

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CORAM : S. G. MEHARE, J.

DATE : 24-08-2023

PER COURT:-

1. Heard finally by consent at the admission stage.
2. The applicant has impugned judgment and decree of eviction granted on the grounds under Sections 15 and 16(1)(a)(b)(e)(g) and (n) of the Maharashtra Rent Control Act, 1999.
3. The learned counsel for the applicant has argued at length and tried to convince the Court that the adjoining land to the suit premises was owned by the landlord/plaintiff. Hence, the suit

premises was not required *bona fide*. Initially, permission for the construction was obtained, excluding the suit premises. He subsequently obtained permission to raise the building on the land adjoining the suit premises. He also argued that there was no specific pleading by way of amendment about the name of the person who was subtenant, which was brought for the first time in appeal. He has assailed the findings of both Courts and submits that in the facts and circumstances of the case, it may not be believed that the suit premises was required for the expansion of his business. A few shops were newly constructed on the remaining land. Therefore, he has no bona fide need of the suit premises.

4. Per contra, the learned counsel for the plaintiff/landlord has vehemently argued that the landlord is the best judge of his *bona fide* need. The landlord had a hotel on the same land. He wanted to expand his business. For that purpose, he needed the suit premises. He would also argue that the tenant was not using the suit premises, and a false defence was raised. No substantial question of law has been involved in this case.

5. The learned counsel for the applicant would submit that a substantial question of *bona fide* need in peculiar circumstances of the case falls for consideration in this second appeal. He would also argue that the appellate Court, for the first time, passed an

order of eviction on the ground of sublease. That needs to be examined.

6. After hearing the respective learned counsels at length and having gone through the observations recorded by both Court as referred to by them and bearing in mind the armchair rule and the principles that the landlord is the best judge of his *bona fide*, bearing in mind the law on the *bona fide* requirement and other grounds for eviction as provided under Section 16 of the Maharashtra Rent Control Act, the Court is not satisfied that there are grounds to interfere with the impugned judgments and decrees. Hence, the revision stands dismissed at the stage of admission. No order as to costs.

(S. G. MEHARE)
JUDGE

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