



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 476 OF 2022

Narendra Kumar Kochar ... Applicant

Versus

Bhagwan Deendayal Punjabi ... Respondent

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Mr. R.A. Thorat, Senior Advocate alongwith Ms. Jyoti Ghag and Mr. Jash Gandhi instructed by Dua Associates AOR for the Applicant.

Mr. Kiran Kulkarni and Ms. Neha Bachim instructed by Kulkarni and Associates for the Respondent.

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CORAM : N.R. BORKAR, J.

DATED : 23 AUGUST 2023

P.C. :-

1. The respondent/landlord had filed a suit against the applicant/tenant for eviction and possession. The eviction was sought on the ground of banafide need of the suit premises as contemplated under Section 16(1)(g) of the Maharashtra Rent Control Act, 1999. The trial court decreed the Suit. The appeal filed by the applicant/tenant against the decree of the trial court came to be dismissed. Hence, this revision by the applicant/tenant.

2. The ground of banafide need was pleaded in following terms :

“ The Plaintiff has two children, a son who is settled in United States of America with his family and a daughter who

is married and settled in Dubai. The Plaintiff had throat cancer in the year 2003 and is taking treatment for the same. The plaintiff is a heart patient and doctors have fixed five stents in his heart and presently he is undergoing treatment. The plaintiff does not get along well with his daughter-in-law at the United states America and has been living there out of compulsion. The plaintiff's son and family have been busy in their day to day life adapting themselves to American style of living. The plaintiff feels lonely in America and is unable to adapt to its culture. The plaintiff therefore intends to leave America for good and settle down in his one and only property in Mumbai and lead his rest of his life in calm and peace. The Plaintiff henceforth wants to settle down in his own house in Mumbai. The Plaintiff wants to stay in the suit premises as he has no other property in India except the suit premises. The Plaintiff craves leave to refer and rely upon the documents pertaining to his health as and when produced.

The Plaintiff states that Plaintiff has a brother Mr. K.D. Punjabi who stays in the Flat No.7 in the very same society and Plaintiff has a sister-in-law by name Mrs. Sharada Valecha residing at 18, Sangam, Greater Bombay Society, 5th Road, J.V.P.D. Scheme, Mumbai. Further the Plaintiff has a sister by name Ms. Pushpa Punjabi who stays in Goregaon, Mumbai. The Plaintiff has no accommodation of his own in Mumbai except suit premises and Plaintiff takes shelter at places of his close relatives. The plaintiff keeps shifting from one relative to another and has no place of his own.

The Plaintiff states that he wants to settle down in Mumbai. The plaintiff is the son of soil and has emotional values attached with this country as well his residence. The plaintiff wants to stay close with his relatives for the rest of his life who can take care of him. The plaintiff is not keeping good health due to old age and several ailments. The Plaintiff wants to stay in the suit premises as the same is his self-acquired property and at this age he can lead peaceful life in his own accommodation. The plaintiff's only wish in his old age is to stay in own residence for the rest of his life as he has emotions attached to this house and wishes to breathe his last

in his own residence. The Plaintiff has close relatives who can take care of the Plaintiff in Mumbai. The Plaintiff is aged 76 with various ailments and physical handicaps. The Plaintiff wants the suit premises back for his bonafide use and occupation. The Plaintiff wants the suit premises for his reasonable use and occupation.”

3. The learned Senior Counsel for the applicant submits that even if the above case of the respondent/landlord is accepted as it is, still at the most it would constitute his mere desire or wish to occupy the suit premises and not his reasonable and bonafide need within the meaning of Section 16(1)(g) of the Act. It is submitted that the trial Court as well as appellate courts thus erred in holding the need of respondent/landlord to be reasonable and bonafide.

4. In support of the submission, the learned Counsel for the applicant has relied upon Judgment of the Hon’ble Apex Court in *Kempaiah vs. Lingaiah and others*¹.

5. The respondent/landlord has spelled out the compelling circumstances under which he requires the suit premises for his own occupation. The circumstances mentioned by him cannot be termed as his mere desire or wish to occupy the suit premises, especially when the applicant/tenant has not attributed any oblique motive behind filing of the suit.

6. Apart from above, as on today, the suit premises no longer exists as it had been demolished for the purpose of redevelopment and the

¹ (2001) 8 SCC 718

applicant/tenant has shifted somewhere else. Considering the overall facts and circumstances, no interference is called for in the impugned decree in revisional jurisdiction. The revision application is dismissed.

6. The learned Senior Counsel for the applicant submits that to enable the applicant to approach the Hon'ble Supreme Court, the respondent/landlord be restrained from creating third party interest in the suit premises for a period of six weeks. The respondent/landlord shall not create third party interest in the suit premises for the period of six weeks.

(N.R. BORKAR, J.)