



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

Writ Petition (WP) No. 1370 of 2020

Munnalal S/o Dhamraji Uike (Dead) and others

Versus

Raju Jagannath Sonone

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri D.S.Lambat, Advocate for the petitioners.

Shri B.D.Pandit, Advocate for the respondent.

CORAM : ANIL S. KILOR, J.

DATED : 2nd NOVEMBER, 2023.

Heard.

2. The father of the petitioner was the tenant of respondent. The respondent filed the suit for ejectment, possession and arrears of rent under Section 16(1)(g) of the Maharashtra Rent Control Act, 1999 (hereinafter referred as "Rent Act, 1999").

3. The said suit was decreed learned trial Court on the ground of bonafide need under Section 16(1)(g) vide judgment and decree dated 23rd August, 2017 and it was upheld by the learned lower Appellate Court vide judgment and decree dated 4th December, 2019, which is the subject matter of the challenge in the present writ petition.

4. The suit property is situated at Plot No. 325 Malginagar, Nagpur. The petitioners are in occupation of two rooms admeasuring 300 square feet and they are residing since 2008 in the said two rooms.

5. It is the case of the plaintiff that he required the suit house for his own occupation. It is the further case of the plaintiff that he is residing with his parent, however, because of strain relations with the family the sisters of the plaintiff have demanded the share in the father's property, he needed the suit house.

6. The learned lower Appellate Court after holding that the plaintiff has established and proved the bonafide need, decreed the suit and it was upheld by the learned Lower Appellate Court.

7. In the above referred backdrop, I have heard learned counsel for the respective parties.

8. Shri Lambat, learned counsel for the petitioner submits that the notice under Section 15(2) of the Act, 1999 was given on 25th June, 2015, however before expiry of period of 90 days, on 21st July, 2015 the suit was filed and therefore the suit is premature.

9. He further submits that the plaintiff has admitted in his cross-examination that he is residing with his parents and as such he has an alternate

accommodation which the learned both the Courts below have failed to consider.

10. He lastly argued that both the Courts have not considered the point of hardship particularly the fact that the petitioner is residing only in two rooms and further if he would be evicted from the said house, he would face the hardship.

11. On the other hand, Shri Pandit, learned counsel for the respondent-landlord has strongly opposed the present petition and submits that submission of the petitioner that the suit is premature, is not tenable for the reason that the decree was not granted under Section 15(2) of the Act, 1999, but it was granted under Section 16(1)(g) of the Act, 1999.

12. He further points out that the house of the parents wherein the plaintiff is residing cannot be considered as an alternate accommodation particularly in view of the fact that the sisters are claiming share in the house and the present suit is needed for his occupation. Accordingly, he prays for dismissal of the present petition.

13. In the light of rival contentions of the parties, I have perused the record and the impugned judgment and order.

14. There are specific pleadings in the suit that the plaintiff is residing on a parent's house and sisters are demanding shares in the said house. It is further stated in the plaint that there are strained relations in the family because of demand of share by the sisters and therefore he wants to need the suit house.

15. In the circumstances, the admission in the cross-examination by the plaintiff on which the petitioner is harping upon, to the effect that he is residing at parents house, will not help to the petitioner.

16. Considering the specific case of the plaintiff why the suit house is required for his own occupation, such admission has no relevance to deny the decree of eviction.

17. As far as the hardship is concerned, there are no pleadings made by the petitioner or even no evidence was led to that effect to show that there was any hardship. In the circumstances, the challenge raised to the hardship is without any merit.

18. As far as the submission of the learned counsel for the petitioner that the suit was premature as it was filed before completion of 90 days after the notice was given under Section 15(2) of the Act 1999, as regards arrears of rent is concerned, the same needs to be rejected for the reason that the decree of eviction was

not granted by the trial Court under Section 15(2) of the Rent Act, 1999.

19. In the circumstance, as there is no merit in the present writ petition, the present writ petition is dismissed.

[ANIL S. KILOR, J.]