



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

WRIT PETITION NO. 5257 OF 2023

SMT. VIMALBAI GANPATRAO JAWADE VS. PRADEEP JAGDISH BIND AND ANOTHER

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S. M. Vaishnav, Advocate for petitioner.
Mr. A. A. Sambaray, Advocate and Mr. Harshad Jichkar,
Advocate for respondent Nos.1 and 2.

CORAM : ANIL S. KILOR J.

DATE : 29/08/2023

The learned trial Court passed the decree of eviction on the ground of arrears of rent and the same has been upheld by the lower appellate Court by its Judgment and order dated 13/01/2023, the same is under challenge in this writ petition.

2. As far as the arrears of rent is concerned, both the Courts below have concurrently held that sufficient evidence has been brought on record to show that from 01/01/2007 to April, 2009, the petitioner was in arrears of rent of Rs.22,400/-.

3. Nothing has been pointed out to show that the findings recorded by both the Courts are perverse on the point of arrears of rent.

4. Accordingly, there is no illegality committed by both the Courts below by decreeing the suit for eviction on the ground of arrears of rent.

5. As far as the bonafide need is concerned, the only ground raised was that the family of the respondent do not reside at Anjangaon-Surji, but they reside at Nagpur and therefore, they do not need the suit property for bonafide accommodation.

6. The learned trial Court has relied upon the judgment in the case of ***Sudha Sumant Barve vs. Ranjana Ramesh Padhye*** 2013(4)Mh.L.J.735, wherein this Court held thus :-

“33. *It is to be noted that learned Appellate Court has totally ignored the evidence of the father of the daughter-in-law of the plaintiff, namely Dinkar Gopal Deshpande. In any case it was not for the Appellate Court to have directed that the plaintiff's family should be separated and plaintiff and her daughter should stay at Thane and other members be shifted at Badlapur. As observed by the Apex Court, it is not for the Court to dictate to the landlord, as to how he should use the property. The learned trial Court considering that present accommodation was not sufficient for accommodating family of six members has rightly granted the decree on the said ground. It is further to be noted that the petitioner has brought on record subsequent developments, which are not disputed by the respondents. During the pendency of the proceedings the original plaintiff has died.*

Her divorced daughter is now aged and suffering from severe arthritis, two grand children of the plaintiff namely Ameya and Anuja who were at the relevant time taking education are now of marriageable age. It is the case of the landlord that on account of paucity of accommodation their marriage could not be solemnized. Even taking into consideration that an area of 200 sq. feet has become vacant during the pendency of the present petitioner, it cannot be said that area in occupation of the petitioners would be sufficient to accommodate the family consisting of plaintiff's daughter, son, daughter in law and their two children. It is to be noted that family is a growing family and as such requirement cannot be said to be fanciful. In that view of the matter, I find that the interference by the learned Appellate Court on the ground of bonafide requirement was also not justified."

7. Hence, I have no hesitation to hold that no perversity is committed by both the Courts in decreeing the suit on the ground of bonafide need too.

8. In the circumstances, I do not find any merit in this writ petition. Accordingly, the Writ Petition is dismissed. No costs.

[ANIL S. KILOR J.]