

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

WRIT PETITION NO. 4290 OF 2023

(Jaychand S/o Bhivraj Sancheti ..VS.. Madanlal Nathmal Dungarwal)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.G. Kavimandan, Advocate for Petitioner.
Shri G.R. Kothari, Advocate for Respondent.

CORAM : ANIL S. KILOR, J.
DATED : AUGUST 07, 2023.

1. Heard.

2. This matter pertains to landlord-tenant dispute about the eviction. The suit was filed by the respondent-landlord against the petitioner-tenant seeking eviction of the petitioner and on the ground of arrears of rent and *bona fide*. The same was decreed on the ground of *bona fide* need, vide judgment and decree dated 04.05.2013 and upheld by the lower Appellate Court vide judgment and decree dated 25.01.2023, hence this petition.

3. The learned counsel for the petitioner-tenant submits that while considering the point of *bona fide* need, both the Courts below have failed to consider the fact that the landlord possesses other properties and pleadings that the alternate accommodation are not sufficient to satisfy the *bona fide* need of the respondent are not made. Therefore, he submits that the decree is erroneous.

4. He further points out that earlier notice determining the tenancy was issued under the old Act and the proceedings which was filed under the old Act was withdrawn and after withdrawal of the said proceedings, no fresh notice was issued determining the tenancy.

5. On the other hand, learned counsel for the respondent-landlord support the judgment and decree passed by both the Courts below and prays for dismissal of the present petition.

6. In the present matter, both the Courts below have held against the petitioner on the point of *bona fide* need.

7. It has come on record that the plaintiff and defendant both own properties and they both are well to do.

8. It has also come on record that defendant has also alternate suitable accommodation. It is further held that the need for *bona fide* occupation has been prayed by the plaintiff in view of the fact that he has two sons and daughter and because of expansion his family, he need more land.

9. As far as, the termination of tenancy vide notice dated 01.04.1996 is concerned, both the Courts below have held that the termination of tenancy was valid. In the circumstances as nothing has been pointed out on

the basis of which this Court can arrive at a conclusion that both the Courts below have committed perversity, I do not find any merit in the present matter.

10. As far as the judgments of the co-ordinate Bench of this Court cited by the learned counsel for the petitioner in case of *Vivek Trimbakrao Paturkar Vs. Sulochanabai Gangadharrao Wattamwar*, reported in *2022(3) Bom.C.R. 438* and *Jain Supari Centre Vs. Rameshlal Motilal Hasoriya*, reported in *2022 DGLS (Bom.) 2131* are concerned, both the judgments are distinguishable on facts.

11. In the case of *Vivek Trimbakrao Paturkar* (supra) the Court has held in favour of the tenant on the point of comparative hardship, considering the fact that the landlord in the said case owned and possessed seven - eight properties whereas, the tenant does not possess any other property and the rented premises.

12. Similarly, in the case of *Jain Supari Centre* (supra) considering question of greater hardship, Court has held in favour of the tenant.

13. In the circumstances, there is no merit in the present matter. The writ petition is dismissed. No costs.