



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

Writ Petition (WP) No. 5139 of 2023

Smt. Sudha Wd/o Ramdas Bhandakkar through legal representatives
Pradeep Bhandakkar

Versus

Vinay S/o Bhaskar Salpekar

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

Court's or Judge's Order

Shri R.N.Sen, Advocate for the petitioner.

Shri P.R.Parsodkar, Advocate for the respondent.

CORAM : ANIL S. KILOR, J.

DATED : 11th SEPTEMBER, 2023.

This matter was argued at length on 7th September, 2023 and when this Court started dictating the order in this petition, learned counsel for the petitioner interrupted and tried to impress upon this Court that considering the fact that there is marriage of daughter of the petitioner, some time may be granted to vacate the premises.

2. Thereupon, he further submits that he will file an undertaking to that effect and accordingly, the matter was adjourned for today.

3. However, today, he made a statement that his client has taken back the record from him and

therefore he is not able to make any statement in respect of undertaking.

4. Be that as it may, in the above referred backdrop, I proceed to pass the order.

5. The present matter pertains to landlord tenant dispute.

6. The petitioner is the tenant whereas, the respondent is the landlord who filed the suit for eviction against the petitioner. The suit was decreed vide judgment and decree dated 12th December, 2013 on the ground of *bona fide* need and thereby the it was directed to the defendant to handover the possession within 30 days.

7. Thereupon, the petitioner filed a regular civil appeal No. 401 of 2014 which came to be dismissed by upholding the judgment and decree passed by the trial Court. The said judgment and decree dated 17th January, 2023 passed by the lower Appellate Court is under challenge, in this writ petition.

8. Learned counsel for the petitioner argues that both the Courts below have not considered the point of hardship in right perspective. He submits that there are no latrine and bathroom available in the suit house and therefore, the petitioner has faced hardship.

9. The said argument is misconceived for the reason that hardship referred in the Act is in relation to vacating the premises and not the hardship the tenant is facing while staying in the suit house.

10. As far as on merit, there are concurrent findings that the suit premises is required for the *bona fide* need of the landlord.

11. While challenging the said findings, the learned counsel for the petitioner argues that there are four members in the family of the petitioner. Whereas, there are two members in the family of the landlord and still the petitioner is staying in two rooms and the landlord is staying in four rooms.

12. It is a settled law that tenant cannot dictate the landlord how to use the premises owned by the landlord. In that view of the matter, I do not find any substance in the submission of the learned counsel for the petitioner.

13. As nothing has been pointed out to arrive at a conclusion that the concurrent findings of *bona fide* needs are perverse or without any evidence. In that view of the matter, the writ petition is dismissed.

[ANIL S. KILOR, J.]