

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

**WRIT PETITION NO. 2677 OF 2023**

Raju D.L.John\_\_ Vs. \_\_ Ramesh Arjunrao Sonkusare

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

Court's or Judge's orders

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Mr. P.D.Randive, Advocate for petitioner  
Mr. D.G.Paunikar, Advocate for respondent.

**CORAM : AVINASH G. GHAROTE, J.**  
**DATE : 13/06/2023**

1] Heard Mr. Randive, learned counsel for the petitioner and Mr. Paunikar, learned counsel for the respondent.

2] The petition questions the judgment and decree dated 2.5.2017 passed by the learned Small Causes Court, granting a decree for eviction under Section 16(1)(g) of the Maharashtra Rent Control Act against the petitioner. The appellate Court by the judgment dated 4.4.2022 has dismissed the appeal.

3] It is contended by Mr. Randive, learned counsel for the petitioner that during the pendency of the suit, the petitioner was prevented from leading evidence on account of his employment at Andaman and Nicobar Island for a period of around 4 to 6 months and therefore, he could not bring the relevant material on record, to disprove the bonafide need claimed by the

respondent/landlord in respect of the suit premises. It is therefore contended by him that the matter needs to be remanded back to the learned trial Court for affording an opportunity to the petitioner/tenant. It is submitted that such a plea raised before the appellate Court has been negatived. It is also contended that the respondent/landlord has also his house at Lal Imali, Gandibagh Nagpur, which is in his occupation and therefore, there is absence of any need.

4] In so far as the first plea is concerned, it is not in dispute that the evidence of the plaintiff/respondent was completed prior to 19.8.2016 on which date the matter was fixed for evidence of the defendant before the learned Small Causes Court. The judgment in the suit was rendered on 2.5.2017, nearly after a period of nine months. In order to substantiate the plea that petitioner/tenant was employed at Andaman & Nicobar during this period, nothing has been placed on record. It was open for the petitioner to have placed documents regarding his employment and therefore, consequent unavailability, such as his appointment/transfer letter, a certificate from his employer, however, nothing has been placed on record, considering which the said plea cannot be accepted, on account of it being unsubstantiated.

5] In so far as the plea of absence of bonafide need is concerned, it is material to note that in the plaint itself (pg.44) the respondent/plaintiff has come with a

case that he was residing in a joint family with his father at 101, Lal Imali, Gandhbagh Nagpur. The need pleaded is for a separate residence from his parents (pg.44). A perusal of the cross examination of the respondent/plaintiff (pg.54) indicates that nothing has been brought out in this regard to substantiate the plea that the house at Lal Imali, Gandhibagh, Nagpur, was separate property of the respondent/landlord and therefore satisfied his bonafide need. Since the plea of the respondent/plaintiff being in occupation of the property at Lal Imali was there in the plaint itself, it was open for the petitioner to have obtained the documents regarding its ownership and taxation and place them on record and so also to confront the respondent/plaintiff with them to substantiate this position. However, nothing has been done.

6] The property in question is a flat and therefore, there is no question of any part eviction. I therefore, do not see any reason to interfere with the impugned judgments of the Courts below. The petition is therefore dismissed. No costs.

**JUDGE**

*Rvjalit*

Digitally sign byRAJESH  
VASANTRAO JALIT  
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Signing Date:13.06.2023 19:18