

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

WRIT PETITION NO.6323 OF 2022

(YASHWANT KASHINATH SHROTRI..VS.. HANUMANDAS RAMJIVAN SARDA, THR. LRS. & OTH.)

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

Court's or Judge's orders

Shri Kaustubh Deogade, Advocate for Petitioner.
Shri M.G.Sarda, Advocate for Respondent No.1.

CORAM : ANIL S. KILOR, J.
DATED : JULY 25, 2023.

1. Heard.

2. This matter pertains to eviction of a tenant on the ground of *bona fide* need. Both the Courts below held in favour of the landlord by recording concurrent findings on the issue of *bona fide* need.

3. Shri Deogade, learned counsel for the petitioner submits that in the evidence of the plaintiff, he has admitted the fact of having alternate accommodation at Tajanpeth. It is submitted that the plaintiff has also admitted the fact that he is in possession of the said shop at Tajanpeth. It is argued that the first floor that is above the suit shop is in possession of the landlord and that could fulfill the need of the landlord. Accordingly, he submits that since the plaintiff is running his business from last 25 years the point of comparative hardship has wrongly been held against the petitioner.

4. On the other hand, the learned counsel for the landlord submits that the petitioner is running his business from the premises which is situated in front of the suit shop. The said premises is of 4000 sq.ft. in which he owns seven shops. He, therefore, submits that both the Courts below have rightly decreed the suit in favour of the plaintiff/ landlord.

5. In light of the rival contentions of the parties, I have perused the record and both the judgments and decrees of the Courts below.

6. From the record, it is evident that both the Courts have concurrently held in favour of the plaintiff on the point of *bona fide* need, after considering and appreciating the oral as well as documentary evidence on record.

7. The plaintiff has successfully established that his son has shifted from Mumbai to Akola and desired to start a business of 'Share Broker and Investment Advisor' at Akola for which the suit premises is needed. The plaintiff has filed certificate issued by National Institute of Securities Market at Exh.27 and 28. The said Certificate was not challenged by the defendant/petitioner. It has also come on record that Nilesh is Investment Advisor and he holds Training Programmes in other cities and he is professionally qualified for business of Investment Advisor.

8. As far as submission of the learned counsel for the petitioner that the plaintiff has alternate premises, is concerned, the same would not be adverse to the plaintiff for the reason that in the said rented premises the plaintiff is running his business, whereas the suit premises is required for his son.

9. It has come on record in the cross-examination of the petitioner that, the building in which the petitioner is running his business is owned by him and it is situated on the plot having 6400 sq.ft. area. Whereas, the construction on it is of 4000 sq.ft. and there are seven shops in the said building. Thus, it is sufficient to hold against the petitioner on the point of comparative hardship.

10. In light of the above referred observations, I do not find any perversity or illegality committed by both the Courts below. I see no reason to interfere in the impugned orders. Accordingly, I pass the following order:

The Writ Petition is **dismissed**. No order as to costs.

JUDGE

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