



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CIVIL REVISION APPLICATION NO. 62 OF 2023**

Shetkari Sahakari Sangh Ltd.  
Through its Chairman(Manager)  
Shri Baburao Kautik Patil .. Petitioner

**Versus**

Dashrath Dharu Chaudhari  
Since deceased through his L.Rs.  
Uddhav Dashrath Chaudhari  
and others .. Respondent

Shri Subodh P. Wani, Advocate for the Petitioner.  
Shri Anil S. Abhyankar a/w Shri Navin S. Shah h/f S. V. Natu,  
Advocate for the Respondent.

**CORAM : SHAILESH P. BRAHME, J.**

**CLOSED FOR ORDER ON : 20.08.2025**  
**ORDER PRONOUNCED ON : 03.09.2025**

**FINAL ORDER :**

. Heard both sides finally at the admission stage.

2. Petitioner is a tenant, who has suffered decree of eviction on the ground of *bona fide* requirement passed by the Trial Court in R.C.S. No. 42 of 2003, which is confirmed by the lower Appellate Court in R.C.A. No. 27 of 2014. It is invoking jurisdiction U/Sec. 115 of the Code of Civil Procedure (for the sake of convenience and brevity hereinafter referred as to the 'C.P.C.').

3. The controversy pertains to northern side five rooms comprising of 60 x 40 feet of C.T.S. No. 797/2 situated at Nandurbar, Dist. Nandurbar owned by the respondent. Petitioner was a tenant, who was allotted the premises somewhere in 1962 for non residential purposes. Both the parties are at variance on the monthly rent payable to the respondent – landlord. As default is not the ground pressed into service by the respondent – landlord, the dispute about rent is not relevant. Petitioner is a cooperative society and it runs a business of selling seeds, pesticides, medicines and all agriculture related equipments in the demised premises.

4. Respondent filed suit for eviction U/Sec. 16(1)(g) of the Maharashtra Rent Control Act, 1999 (for the sake of convenience and brevity hereinafter referred as to the 'Act'). It is claimed that premises is needed for grandson Chandrakant, nephew Sanjay and Jagdish for business and commercial activity. It is contended that southern five rooms in occupation of the respondent are inadequate and there is no suitable and convenient premises available. It is further contended that the petitioner owns number of properties, many of which are already let out. The petitioner can accommodate it's activities in the premises available with it and there would be no hardship.

5. Petitioner contested the suit by filing written statement denying that there was no joint family and nephew or the grandson are not members of the same. It is contended that need

is false and already adequate premises is available with the respondent. Additionally, it is stated that the demised premises is convenient not only for the petitioner, but for the beneficiaries and the agriculturists. It is further contended that the tenants of the petitioner have not vacated the premises and suits are pending for eviction.

6. Respondent examined two witnesses one is himself and another is Chandrakant, his grandson. Petitioner examined manager Mr. Anandrao Patil.

7. Both the Courts below held that the respondent is entitled to receive the possession on the ground of *bona fide* requirement. The issue of hardship is also answered in favour of the respondent - landlord. It is concurrently held that petitioner is having a multi storied building and it has twelve to thirteen tenants. One of the tenants i. e. State Bank was evicted part of the premises. Both the Courts below took cognizance of the admissions given by the petitioner's witness in the cross examination.

8. Learned counsel Mr. Subodh P. Wani appearing for the petitioner canvassed following submissions :

I The requirement of the respondent is neither *bona fide*, nor reasonable. The persons for whom the requirement is tried to be shown are not dependent on the respondent.

II No joint family of the respondent exists. There is already partition and members are separate, which is clearly admitted by the witnesses of the respondent.

III Undue reliance is placed on the evidence of the petitioner's witness.

IV There is no adequate material on record to corroborate *bona fide* requirement and hardship.

V Courts below committed perversity in holding that respondent's family is joint and findings of *bona fide* requirement are based on conjecture and surmises.

VI No specific findings are recorded on the issue of hardship.

9. Per contra, learned counsel Mr. Anil Abhyankar appearing for the respondent would support impugned judgments and decrees. He would submit that there are concurrent findings of facts, which are based on material on record and which are reasonable and plausible. It is submitted that respondent is entitled to claim the premises not only for his need, but for the requirement of his grandson and nephews or members of the family. It is submitted that demised premises is at the front side and most convenient for business. It is further submitted that witness of the petitioner has given vital admissions, which are rightly appreciated by the Courts below. It is further submitted that the petitioner is owner of huge building at prime location and has adequate premises to shift its business. Couple of

tenants vacated the premises and against few of the tenants suits are pending. It is also submitted that present revision application is not tenable.

10. Mr. Anil Abhyankar, learned counsel for the respondent raised a plea that present revision application is not tenable. For that purpose reliance is sought to be placed on the judgment of the Supreme Court in the case of Laxmikant Revchand Bhojwani and another Vs. Pratapsing Mohansingh Pardeshi deceased through his heirs and L.Rs. reported in *1997(3) Bom.C.R. 01*. I am not inclined to accept the plea. It is settled legal position that civil revision application U/Sec. 115 of the C. P. C. is tenable. In the present case, writ petition was filed, which is converted into revision. It is true that all species of hardship or wrong decision cannot be corrected by the High Court, but jurisdiction of the High Court cannot be excluded altogether. This Court has jurisdiction to entertain revision as it is laid down in the matter of Hindustan Petroleum Corporation Ltd. Vs. Dilbahar Singh reported in *(2014) 9 SCC 78*.

11. Admittedly, southern side portion is in possession of the respondent – landlord and five rooms on the northern side situated within 60 x 40 feet is the demised premises. It needs to be clarified that the petitioner had let out the premises for non residential purpose. The requirement pleaded in para Nos. 3 and 4 of the plaint and the evidence pertain to non residential purposes i. e. for starting computer classes, medical shop or the business. Therefore a stray reference in the deposition of P.W. No. 2 that suit premises is required for demolition of old

structure and constructing new building cannot be entertained. The decree has not been passed on that ground.

12. I have gone through the deposition of the P.W. No. 1. My attention is adverted by the learned counsel Mr. Wani to his cross examination. Respondent is the owner of the property and he wants the premises for business of or settling down his grandson and nephews. He has admitted that in the year 1958 partition took place, but further clarified that it was nominal and members are still residing together. The houses and the agricultural lands allotted to them are stated to be separate. This Court need not go into the niceties of partition by metes and bounds or joint family status of the respondent and his family members. It is immaterial as to whether their residence or agricultural occupation is separate or not. The requirement pressed into service by the respondent is for starting business for few of the family members.

13. It has not come on record that grandson Chandrakant or nephews Sanjay and Jagdish were having independent and adequate business ventures at suitable places, when suit was filed. It is not requirement of law that the persons for whom the premises is required have to be dependent on the landlord. In present case they are close relatives of the respondent and if premises is required for their settlement, then there is nothing unreasonable. Notwithstanding the partition, the relationship subsists. Considering frontage and location of the demised premises, if respondent wants the premises for starting business

for his family members, *bona fides* cannot be doubted.

14. It has come on record that grandson Chandrakant is a diploma holder in pharmacy and has experience and is in need of premises to start a shop. Sanjay a nephew is having required qualification to start the computer classes. Jagdish another nephew of the respondent is an engineer and he needed premises to start business. The requirement pressed into service by the respondent – landlord is genuine and reasonable. It cannot be said to be mere desire or imaginary.

15. I find no merit in the submissions of the learned advocate Mr. Wani for the petitioner that respondent owed no duty to settle members of the family due to partition. The cross examination of the respondent and Chandrakant does not elucidate anything useful to the petitioner. Both the witnesses corroborated plea of *bona fide* requirement. This Court cannot be oblivious of the fact that the premises in question is at the prime location surrounded by commercial activities where any person would like to start the business. Simultaneously, there is material on record to indicate that southern side premises available with the respondent – landlord is inadequate.

16. Mr. Anil Abhyankar, learned advocate is right in contending that Sec. 16(1)(g) of the Act contemplates need of the landlord himself or any person for whose benefit the premises are held. The requirement pressed into service is clearly covered

by Sec. 16(1)(g) of the Act. The concurrent findings of facts recorded by both the Courts below cannot be faulted. Those are reasonable findings supported by evidence on record. It is trite law that neither tenant, nor this Court can determine or regulate need of the landlord. Landlord is best judge of his need and suitability of the premises.

17. Both the parties pleaded and led evidence on comparative hardship. An issue to that effect was also cast in the Trial Court as well as lower Appellate Court. Trial Court dealt with that issue in para No. 16 and Appellate Court in para No. 50. The submission of the petitioner that issue of hardship has not been precisely dealt with cannot be accepted. I find that both the Courts below considered material on record and the case laws also in answering issue in favour of the respondent – landlord.

18. In written statement petitioner did not dispute that it is owner of a building and there are tenants in it. It transpires that proceedings for eviction against them are pending. One of the tenants is the State Bank. Oral evidence of the witnesses of the respondent indicate that there are number of premises owned by the petitioner and one such premises is a building near Nehru statue of Nandurbar city. It comprises of four godowuns. There are twelve to thirteen tenants in the said building. The pleadings and the cross examination of the petitioner's witness unequivocally disclose availability of the premises with the petitioner.

19. I have gone through the deposition of the petitioner's witness, who is the manager. There are number of candid admissions. It is not disputed that he is in know how of administration and assets of the petitioner society. Following admissions are very crucial :

- (i) The premises of building owned by the petitioner is 7000 to 8000 square feet, in which twelve to thirteen tenants are housing.
- (ii) Four godowuns are in the building.
- (iii) Previously State Bank was the tenant, which vacated the premises and the same has been let out to other tenants on higher rent.
- (iv) Petitioner filed suits for eviction against eight to ten tenants, out of that in two cases decree for eviction was passed by compromise.
- (v) Possession was given by one of the tenants namely Assistant Registrar Co-operative Societies, which is comprising of 1800 square feet.
- (vi) Tenant Prabhakar Jondhale handed over possession of five rooms in compromise and some rooms were further let out to other tenants.
- (vii) Petitioner secured possession of it's tenanted premises citing present suit for eviction filed by the respondent.
- (viii) Respondent is having a big family and agricultural lands are not sufficient to satisfy their needs.
- (ix) The premises is required for medical shop or computer

business.

20. Both the Courts below have rightly appreciated admissions referred above in deciding issue of *bona fide* requirement and hardship in favour of the respondent. I do not find any perversity or patent illegality in those findings. The witness cannot be discarded just because he is admitting the requirement of the members of respondent's family. The respondent has independently led evidence. The admissions given by the petitioner's witness corroborated case of the respondent. The submission of the learned counsel for the petitioner that undue reliance is placed on his evidence is also liable to be rejected.

21. Petitioner placed reliance on following judgments of Supreme Court and this High Court :

A. Mattulal Vs. Radhe Lal reported in *AIR 1974 SC 1596*. I have considered paragraph No. 12. It is laid down that the test to be applied by the Court is an objective test and not subjective one while examining *bona fide* requirement. Mere assertion would not be sufficient to prove that requirement is *bona fide*. Mere desire is not sufficient. I have followed the same principles and recorded in the present matter that it is not a mere desire of the respondent. The evidence on record shows element of need and genuineness in starting new business. Respondent has discharged the burden in that regard. This judgment will not help the petitioner.

**B. Baitulla Ismail Shaikh and another Vs. Khatija Ismail Panhalkar and others** reported in **2024 SAR (Civ) 275**. I have gone through para No. 11. *Bona fide* requirement as contemplated by Sec. 16(1)(g) of the Act is separate from requirement U/Sec. 16(1)(h) of the Act. I have already clarified that though it is tried to be contended by one of the witnesses of the respondent that premises is required for demolishing old structure and erecting new building, the said plea is liable to be rejected because the ground for eviction, which is pressed into service is U/Sec. 16(1)(g) of the Act. This judgment will not help the petitioner.

**C. Vasant Mahadeo Gujar Vs. Baitulla Ismail Shaikh and another** reported in **(2015) 5 Bom CR 243**. I have considered para Nos. 54, 57, 58, 60, 63 and 64 of the judgment. It is distinguishable on facts. I have already recorded that in the case at hand not only respondent – landlord has led adequate evidence to make out a case U/Sec. 16(1)(g) of the Act, but the witness of the petitioner has given material admissions to corroborate respondent's case. This judgment is of no avail to the petitioner.

**D. Vivek Trimbakrao Paturkar (M/s) Parbhani Vs. Sulochanabai W/o Gangadharrao Wattamwar** reported in **2022(4) Mh.L.J. 41**. I have considered para Nos. 17, 20 to 26 of the judgment. The facts are distinguishable. In the present case adequate evidence is led to make out a case of *bona fide* requirement which is not mere fanciful wish or dishonest desire. This judgment is not useful to the petitioner.

E. Sushiladevi and others Vs. Avinash Chandra Jain and others reported in (1987) 2 SCC 219. I have gone through para No. 3 of the judgment. After examining record and the impugned judgments, I have come to the conclusion that the impugned decisions are in accordance with settled principles of law. There is no perversity or error of jurisdiction.

22. Respondent relied on following judgments of the Supreme Court and this High Court :

a. Kanahaiya Lal Arya Vs. Md. Ehshan and others reported in 2025 SAR (Civ) 418. I have gone through the judgment. Propositions laid down in para Nos. 10 to 12 are not disputed. It is reiterated that landlord is best judge to decide and select the property required to satisfy his need. I have concurred with the findings recorded by the Courts below by following the judgment.

b. Dwarkaprasad Vs. Niranjan and another reported in 2003(2) All MR 1140 (S.C.). I have gone through para Nos. 8, 9 and 11 of the judgment, which explains the purport of word 'himself' occurring in Sec. 16(1)(g) of the Act. Following the same principle, I have recorded that requirement of grandson and nephews is squarely covered by Sec. 16(1)(g) of the Act.

c. Maganlal Kishanlal Godha Vs. Nanasaheb Udhaorao Gadewar reported in 2008 (3) B C J 554 (SC). I have considered para Nos. 15 to 18 of the judgment. It is rightly contended by the respondent that the tenant cannot dictate that already southern side portion is

available for the respondent to accommodate business activities of the family members. It is the privilege of the respondent – landlord. The ratio is applicable to the present case.

23. I am of the considered view that the respondent is entitled to receive possession. Decrees passed by both the Courts below are sustainable. For the foregoing reasons, I find no substance in the revision. The civil revision application is dismissed with cost.

**[ SHAILESH P. BRAHME J. ]**

*bsb/Sept. 25*