



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

CIVIL REVISION APPLICATION NO.163 OF 2019

1. Sundarabai w/o. Girdharilal Pali,
Age : 60 years, Occ. Household,
r/o. Shanti Mandir Ward, Bhusawal,
Tq. and Dist. Bhusawal
2. Deepak s/o. Girdharilal Pali,
Age : Years, Occ. Labour,
r/o. Vitthal Mandir Ward, Bhusawal,
Tq. and Dist. Bhusawal
3. Omprakash s/o. Girdharilal Pali,
Age : 38 Years, Occ. Labour,
r/o. Shanti Mandir Ward, Bhusawal,
Tq. and Dist. Bhusawal
4. Raviparkash s/o. Girdharilal Pali,
Age : 30 Years, Occ. Service,
r/o. M.H.No.8/1091, Panchasheel Nagar,
5. Mrs. Nanda Pali,
Age : 35 Years, Occ. Household,
r/o. Mata Chowk, Khandawa (M.P.)

..Petitioners
(Org. Defendants)

Vs.

Omprakash s/o. Sunderlal Sharma,
Age: 58 Years, Occ. Service,
r/o. Shanti Mandir Ward,
New Shiv Mandir, Bhusawal,
Tq. and Dist. Bhusawal

..Respondent
(Org.Plaintiff)

Mr.Bhargav B. Kulkarni, Advocate for petitioners
Mr.Praveen B. Gamot, Advocate for respondent

CORAM : AJIT B. KADETHANKAR, J.
RESERVED ON : OCTOBER 13, 2025
PRONOUNCED ON : OCTOBER 29, 2025

JUDGMENT :-

Heard. Rule. Rule made returnable forthwith. By consent of both the parties, the petition is heard finally. To facilitate the final hearing the petitioners have tendered private paper book.

2. The petitioners – tenants, sufferer of an eviction decree ordered by Ld. 4th Jt. Civil Judge, Junior Division, Bhusawal, in Regular Civil Suit No.116 of 2011, decided on 31.12.2015 AND confirmed by Ld. Ad-hoc District Judge-1, Bhusawal, vide his judgment and order dated 20.04.2019, passed in Regular Civil Appeal No.19 of 2016, are before this Court vide present Civil Revision Application.

For the sake of convenience and to avoid confusion, the parties are referred as to their original status in the Id. Trial Court.

Petitioners	Original Defendants @ Tenants
Respondent	Original Plaintiff @ Property Owner

3. **Moot points considered:**

- (i) Parameters to adjudge Owner's bonafide need for possession of tenanted premises for personal use and occupation;

- (ii) On the point of 'hardship' if both the parties are at equal, what is the end result?
- (iii) Whether and when findings on facts can be interfered under Section 115 of C.P.C.?
- (iv) Are the grounds under Section 16(1) of the Maharashtra Rent Control Act, 1999, mutually exclusive?

4. **Facts in brief:-**

4.1 The description of the suit property is as follows:-

Room No.1, in House No.4/132/2 (Old No.2369/2), situated in the jurisdiction of Municipal Corporation, Bhusawal, which is bounded as under :-

Towards East - lane
Towards West - road
Towards South - lane
Towards North - Another room of the building

4.2 The Plaintiff is the owner of the suit property. Initially, one Bachai Janki Pali was inducted by the Plaintiff as tenant in the suit property. After his demise, his son Girdhari Bachai Pali became

tenant in the suit property. Girdhari also died on 31.03.2008 and the present petitioners/Defendants are his legal representatives.

4.3 During his lifetime, Girdhari was served with attornment notice by the Plaintiff, i.e. present respondent (owner) on 25.12.2006. However, it was not collected by Girdhari.

4.4 It was the case of the Plaintiff that since 2004-2005, the Defendants were not residing in the suit premises. That, the tenants/Defendants purchased a residential house bearing Municipal House No.8/1091, Panchashil Nagar, near Buddha Vihar, Bhusawal, in the name of Defendant No.2. That, the said house was later transferred in the name of Defendant no.4. That Defendant No.2 started residing at Vitthal Mandir Ward, Bhusawal. That, Defendant No.5 got married and started residing with her husband at Khandwa (Madhya Pradesh).

4.5 As such, the Plaintiff pleaded that the Defendants were in no more need of the suit property, rather in fact the owner-Plaintiff was in *bonafide* need of the suit property for residential purpose to accommodate at least more than seven persons in his family.

4.6 That the owner's son was of marriage age and considering the growth in the family members, the owner was in *bonafide* need of the suit property. As such, the *bonafide* need was pleaded by the owner and it was demonstrated that there would be no hardship to the tenants, if they are directed to vacate the suit premises.

4.7 The Plaintiff further pleaded that the didn't pay any rent since 20.05.2004. That, an amount of Rs.2490/- was outstanding as arrears of rent and Rs.1046/- was outstanding as tax amount towards Defendants. Plaintiff submitted that despite of the notice issued to clear the defaults, they failed to do so. As such, an additional ground of default in payment of rent was also pleaded in the plaint.

4.8 The Defendants in their reply, ultimately admitted the ownership of the Plaintiff. They however submitted that they were not in receipt of any attornment notice or any demand notice. As such, the Defendants submitted that they were not willful defaulters. Defendants submitted that in fact they paid the rent amount till 31.12.2007 to one Ashok Sharma to whom they had knowledge to be the owner of the suit property.

4.9 Besides these averments, the Defendants denied the rent amount of Rs.30/- and also the tax amount. They also denied that the Plaintiff was in need of the suit property for any *bonafide* requirement and that the owner's existing premises was insufficient for his family. The Defendants further submitted that they had no source of income and that Defendant No.3 was a Labour. The Defendants submitted that if a decree of eviction is passed, they would be at greater hardship. As such, it was prayed to dismiss the suit.

4.10 Ld. Trial Court framed the issues and recorded findings that the Plaintiff proved that he required the suit premises reasonably and bonafidely for his personal use and occupation. Ld. Trial Court also recorded finding that the Plaintiff would be at greater hardship if a decree of eviction is not passed. The Trial Court also recorded finding that the Plaintiff was entitled for recovery of Rs.1,080/-.

Resultantly, Ld. Trial Court passed the decree of eviction against the Defendants and directed them to vacate the suit premises within three months from the date of judgment and order. The Defendants were held responsible to pay the amount of Rs.1,080/- to the Plaintiff towards arrears of rent prior to institution of

suit. Any rent deposited by the Defendants in the Ld. Trial Court was directed to be subtracted from the amount due and payable to the owner and to be paid to the owner. An inquiry under Order XX Rule 12 of the Code of Civil Procedure Code for mesne profit was directed to be initiated.

4.11 The Defendants carried the judgment and decree passed by Ld. Trial Court in appeal. Ld. First Appellate Court reassessed the evidence on record and examined the findings recorded by Ld. Trial Court in the light of the said evidence.

It was found that the Defendants admitted that there were 8 members in the owner's family, who were residing in a small house wherein the suit property, i.e. rented room is situated. Ld. First Appellate Court concurred with the findings rendered by Ld. Trial Court that the need for occupation of the suit property as expressed by the Plaintiff was perfectly justifiable and can be indeed said to be reasonable and *bonafide* need.

4.12 As such the requirement of the suit property for 'reasonable and *bonafide* need ' as was established by the Plaintiff, was upheld by Ld. First Appellate Court. The Ld. First Appellate Court recorded its findings and confirmed that the Defendants have purchased an accommodation in Panchasheel Nagar, Bhusawal. The

evidence at Exhs.59 and 60 established this fact. DW1- Omprakash Pali, who deposed for all the Defendants , admitted that the Defendant No. 5 does reside with her husband at Khandwa (M.P.).

His further deposition as to he does not have knowledge of residence of Defendant No.2 - Deepak, shows that said Deepak resides somewhere else but not in the suit property. As such, Ld. First Appellate Court concurred with the findings rendered by Ld. Trial Court on the point of 'reasonable and bonafide need of the owner to require the suit property' and 'availability of alternative accommodation to the Defendants'.

4.13 As such, the findings rendered by Ld. Trial Court as to greater hardship came to be upheld by Ld. First Appellate Court in favor of the Plaintiff. Ld. First Appellate Court also modified the findings rendered by Ld. Trial Court on the issue Nos.3 and 5 and recorded those in the affirmative. Ld. First Appellate Court expressly recorded that although the findings on the issue Nos. 3 and 5 were modified but it would not be helpful to the Defendants/tenants.

With these observations, Ld. First Appellate Court dismissed the appeal preferred by the tenants and confirmed the decree of eviction. Hence the present revision application is filed by the Tenants.

5. **Petitioners' argument:-**

5.1 Mr. Bhargav Kulkarni, Ld. counsel for the defendants/present petitioners, submitted that the owner cannot be said to have reasonable and bonafide need of the suit premises for residence and occupation. He would further submit that in fact, both the courts below ought to have appreciated that the theory of "greater hardship", as pleaded by the tenants would prevail over the case of "reasonable and bonafide need for residence and occupation", as was raised by the Plaintiff/owner.

5.2 He would further submit that both the Ld. courts ought to have sought more convincing evidence from the Plaintiff on the point of reasonable and bonafide need for residence and accommodation. He would further submit that considering the fact that the tenants being labourer and having no source of income, both the courts below ought to have held that the tenants would be at greater hardship, if the decree of eviction is passed.

5.3 Last but not the least, Mr. Bhargav Kulkarni, Ld. counsel for the petitioners was at pains to submit that despite there being no appeal from the Plaintiff, Ld. First Appellate Court is not justified in modifying the findings of Ld. Trial Court on issue Nos. 3 and 5. As

such, Ld. Advocate Mr. Bhargav Kulkarni prayed to allow the Civil Revision Application and to quash and set aside the judgment and decree passed by Ld. Trial Court and Ld. First Appellate Court.

6. Respondent's argument:-

6.1 Mr.Gamot, Ld. counsel for the Plaintiff/owner supports the findings rendered by Ld. Trial Court as also by Ld. First Appellate Court on the point of 'reasonable and bonafide need for residence and occupation by the owner in respect of the suit property.' He would further submit that both the courts below have rightly observed that the Plaintiff/owner would be at greater hardship if the decree of eviction is not granted, as prayed in the application.

He would lastly submit that nothing prevented Ld. First Appellate Court from modifying the findings on issue Nos.3 and 5. nor the fate of eviction decree is changed due to the modified findings. As such, he prayed to dismissed the Civil Revision Application with costs.

7. Points framed:-

No.	Points	Remark
01	Whether the Ld. Trial Court and the Ld. First Appellate Court are justified in upholding Plaintiff's bonafide need of the tenanted premises for personal use and occupation?	Yes

02	Whether the Ld. Trial Court and the Ld. First Appellate Court are justified in rendering their findings on quantum of hardship and party to suffer greater hardship?	Yes
03	Whether modification by the Ld. First Appellate Court in findings of the Ld. Trial Court on Issues Nos.3 and 5 affects the decree of eviction passed u/s 16(1) (g) of the Maharashtra Rent Control Act?	No
04	What order?	As per final order.

8. Discussion and Findings:-
(As regards to points Nos.1 and 2)

8.1 The scope in the Civil Revision Application to decide the factual controversy in the case like the present one is narrow. With able assistance of the Ld. Counsel for the respective parties, I have minutely gone through the contents in the paper book.

8.2 Ld. Trial Court while deciding the issue on the point of “reasonable and bonafide need for residence and occupation of the suit property”, has thoroughly examined the evidence on record.

8.3 Ld. First Appellate Court while examining the correctness of those findings has recorded that the tenants admitted that there were eight members in the family of the owner. Ld. Trial Court has rightly observed that except bare pleadings, the Defendants could

not prove that the existing house of the owner was adequate for his residence and that the need for the rented room was not bonafide need of the Plaintiff.

8.4 Ld. Trial Court recorded finding that the tenants also admitted that the owner's son was newly married by then. As such, Ld. Trial Court rightly relied on the judgment and order passed by this Court in the cases of (i) **Shankar Bhairoba Vadangekar Vs. Ganpati Appa Gatare, 2001(4)Mh.L.J. 131**; (ii) **Mrs. Meenal Eknath Kshirsagar Vs. M/s. Traders and Agencies, 1996(3) CCC 154 (SC)**.

8.5 So far as the alternate accommodation and hardship of the tenants is concerned, Ld. Trial Court examined the documents and evidence on record, whereby it has come on record that the tenants had alternate accommodation at Panchasheel Nagar, Bhusawal (Municipal House No.8/1091) that was purchased in the name of the Defendant No.2 and transferred to Defendant No. 4.

Ld. Trial Court for this, has relied upon Exhs.59 and 60.

The relevant findings recorded by Ld. Trial Court are seen as follows:-

“31. Moreover, other Defendants have acquired house in Bhusawal. On perusal of Exh.60, it appears that the Defendant no.2 has transferred his house in the name of

Defendant no.4. It means that there is house in the name of the Defendant no.4 in Bhusawal. Moreover, it is not the case of the Defendants that there is quarrel between the Defendant no.1,3 and other Defendants and due to which other Defendants are not permitting the Defendant no.1 and 3 to reside in their house. So also, the Defendant no.3 in his cross-examination has admitted that his brother are also doing labour work. But, they have acquired the separate residence in Bhusawal. It means the brother of the Defendant no.3 who are also doing labour work have got separate house in Bhusawal. If it is so, then why the Defendant no.3 can not get the house in Bhusawal. The Defendant no.3 has to furnish special reason for that purpose. But, the Defendant has failed to do so. Therefore, only on the ground that the Defendant No. 3 is doing labour work. It can not be said that he can not acquire a house in Bhusawal particularly, when he has not made any attempt to search it.

32. *Moreover, in Shamshad Ahmad and ors. Vs. Tilak Raj Bajaj (deceased) through Lrs. and ors., (2008)9SCC 1, observed that-*

48. Regarding comparative hardship, nothing has been stated by the tenant as to whether any attempt has been made by him to get alternative accommodation and he failed to get such accommodation. In the circumstances, in our opinion, the Appellate authority was right in observing that there was no evidence to show that no shop was available to the tenant. It is quite possible, as noted by the Appellate authority, that the tenant might have to pay more rent. But that would not preclude the landlords from getting possession of the suit shop once they had proved genuine need of the property.

33. *As discussed above, the Defendant No. 1 or 3 have not produced any evidence about their attempt to get alternative accommodation. Moreover, other Defendant no.2 and 4 have got the house in Bhusawal who are also doing labour work. Therefore, mere deposition of the Defendant no.3 that they are not having other house is not sufficient to hold that greater hardship will be caused to him on eviction from the suit premises. On the*

other hand the son of the Plaintiff is newly married. The family of the Plaintiff is growing family. Therefore, greater hardship will be caused to him, if possession will not hand over to him. Hence, I answer issue No. 7B accordingly.

8.6 Ld. First Appellate Court has reassessed the evidence to check the correctness of the findings recorded by Ld. Trial Court and has concurred with those findings.

In my view, profitable reference could be made to a case decided by this High Court in the case of **Kewalchand Nemechand Mehta and ors. Vs. Mrs. Mani Framji Mody, 2007(1)AIR Bom. R. 798**. This court inter alia held that once the Owner proves his bonafide need for personal use and occupation of the tenanted premises, the Tenant has low voice to disagree over it. That, Owner is the best judge to decide his bonafide need of the tenanted premises for personal use and occupation. In this regard, the observations recorded by this Court at paragraph 12 would be useful, which are reproduced as under:-

12. Coming to the issue of the landlords requirements of the suit flat for reasonable and bona fide requirements, even if it is accepted that the family was occupying both the flats on the 5th floor consisting of three bed rooms, one sitting room, one God's room, one store room and one kitchen, it is not for the present respondents to decide what could be

the adequate requirements for the landlords family. The convenience of the landlords is not an issue which need to be dictated by the respondents. Admittedly, the family of the landlords consists of 14 members and 5 servants. If the family finds it more convenient that one more flat for their personal use and occupation is required, it is their decision which cannot be to the subjective satisfaction of the respondents. If the daughters are married that does not mean, per se, that family's requirements for the suit premises ceased to exist. The landlords were therefore, right in contending that on the demise of Mrs. Mody the issue of hardship got extinguished and in any case the landlords proved their case that they required the suit flat for reasonable and bona fide requirements of the family, is required to be upheld and the view taken by the lower Appellate Court in that regard is patently erroneous. The requirements of the landlords could not be called as dishonest or motivated. Looking at the family size, if the landlords felt that one more flat in the same building was required for the family's occupation and use, the said expectation cannot be subject matter to be decided by the respondents' choice. The present respondents have put up a brazenly false claim before the lower Appellate Court and in her oral depositions Mrs. Mody had clearly stated that her daughter was staying with her husband in a separate house. It is only by one statement in the second depositions, Mrs. Mody, purely by way of an after-thought, came out with a bald statement that her daughter was staying with her in the suit house, when such a contention was never taken in the written statement filed by her or in the petition filed before this Court, as is clear from the record. This is yet another case where greed breeds litigation and piling of cases before the Court.

8.7 In 2012, again this High Court in another case of **Rafiq Ahmed Qureshi s/o. Bashir Ahmed Vs. Iqbal Khan s/o. Hashmat Ali Khan and ors. Reported at 2012(1) Mh.L.J. 337**, observed in paragraph 12 as follows:-

12. The Courts also held that petitioner/landlord requires the suit premises bona fide for his business as he is running the said business. The Appellate Court has held that the place where the business is carried out is more suitable for transportation business and the said business is flourishing in that area and the Plaintiff carries his ancestral business of silk cloth. Whether the business can be flourished or not is not the requirement under the statute. The requirement under the statute is bona fide need of the landlord and the same has been established. is settled law that the landlord is the best judge of the premises that requires for the business and the tenant cannot dictate the terms. The only question that would remain is of the hardship. The tenant has not stepped into the witness box to prove the aspect of hardship. If the hardship is equal to the landlord and the tenant then the rule is a decree of eviction, In the present case in absence of any evidence or proof on the part of the tenant about the hardship being caused the landlord would be entitled for decree of eviction.

(As regards to Point No.3- Hardship)

8.8 I find that the Defendants could not convince by cogent evidence that they would be on greater hardship if eviction decree was passed against them. Rather the evidence speaks that the Defendants had already acquired own accommodation. The pleading of the Defendants that the Plaintiff has no bonafide need of the tenanted premises is one thing, and their contribution in the evidence to prove such pleading is another. In fact as observed supra, the Defendant No.1 while deposing for other Defendants has admitted the number of Plaintiff's family members and that in the meantime Plaintiff's son has also newly married. In the light of this, there require no other words to prove Plaintiff's bonafide requirement of the tenanted premises for personal use and occupation, as also the greater hardship in the event of denial to the eviction decree. On the contrary, except bare pleading the Defendants didn't produce any evidence to show their hardship.

Its well settled now that the term 'personal use & occupation' includes the use for entire family and family members. Profitable reference can be made to the latest pronouncement by the Hon. Supreme Court in the case of "**Murlidhar Aggarwal (Died Per LRs.) Vs. Mahendra Pratap Kakan (Died Per LRs)**" reported at 2025 INSC 564 (C.A. No. 4275 of 2017).

Their Lordships at Para.25 of the judgment (supra) held:-

25. It is well settled that the bona fide requirement for occupation of the landlord has to be liberally construed and, as such, even the requirement of the family members would be covered. [See Joginder Pal v. Naval Kishore Behal, (2002) 5 SCC 397 and Dwarkaprasad v. Niranjana and Anr., (2003) 4 SCC 549]”

8.9 In the light of above, answer on the point of ‘who is at greater hardship?’ is clear. Its trite law that even if both the parties are equal on ‘hardship’, the end result is the decree of eviction. In the instant case, both Courts have rightly observed that the Plaintiff would be at greater hardship if decree of eviction was not granted.

8.10 The Defendants could not point out before me as to how the Ld. Trial Court and/or Ld. First Appellate Court have committed any jurisdictional error while recording these findings. I do not find any illegality or perversity in the findings under challenge.

8.11 Now on this backdrop, the last objection raised by Mr.Kulkarni, Ld. counsel , as to “whether Ld. First Appellate Court is justified in modifying the findings on issue nos.3 and 5” literally remains an academic discussion and won’t rescue the Tenants from the ‘decree of eviction that stood on the ground of owner’s bonafide need of the tenanted premises for personal use & occupation comparing the greater hardship’.

Irrespective of the findings on arrears of rent or any other point, whether rightly modified by the Ld. First Appellate court or not, the Decree of Eviction u/s 16(1) (g) would hold field unless reversed on 'its merit'. Its on the principle that the grounds u/s 16(1) of the Maharashtra Rent Control Act are not mutually exclusive.

8.12 This tempts me to cite what exactly has been laid down by this Court in the case of **Madhukar Laxman Umalkar Vs. Keshao Laxman Shilawant, in 2005(6)Bom.C.R. 393**. In the said case, although the owner has proved his case for bonafide need, Ld. First Appellate Court reversed the decree on the ground that the suit was premature. Disapproving it, this Court observed as follows:-

13. Insofar as the second ground is concerned, perusal of section 16 would show that when eviction of tenant is sought on any of the grounds mentioned under section 16(1) of the said Act, no notice is required. It is clear from the perusal of section 16(1) that if the landlord satisfies the conditions mentioned in the grounds available under section 16(1) of the said Act, he can directly file a suit a possession. In the facts of the present case, though the Ld. Appellate Court has concurred with the findings of fact arrived at by the Ld. Trial Court that the petitioner has proved his case for bonafide need and that it was also proved that the petitioner does not have any alternate premises for starting his business, has reversed the order solely on the ground that the suit was premature. I find that the

said findings are totally in ignorance of the provisions of section 16(1) of the said Act.

8.13 Learned First Appellate Court has rightly recorded that such modification in the findings won't be beneficial to the tenants as it does not take away the effect of the eviction decree that is passed by Ld. Trial Court against the Defendants u/s 16(1) (g).

8.14 I also observed that even so far as service of notice and objection of the defendant/tenant on service of notice is concerned, learned trial court has correctly rendered its findings. Even, learned first appellate court has also rendered its judicious opinion as regards Exh.33(1) and 33(2). As such, none of the findings on fact suffer any perversity.

8.15 Mr. Bhargav Kulkarni, Id. counsel for the petitioners made every sincere effort to convince this Court to quash and set aside the eviction decree. However, I am in respectful agreement with the view expressed by this High Court in the cases referred supra, and don't see any convincing case to any different view.

Conclusion:

9. I find no room to doubt the correctness in the findings on facts rendered by Ld. Trial Court as well as Ld. First Appellate Court, as recorded above. Ld. Trial Court has passed the Decree for Eviction by assessing the evidence on record in its correct perspective. Ld. First Appellate Court has re-assessed the evidence independently and has confirmed the decree for eviction. I have carefully scanned the findings recorded by the Ld. Trial Court as well as Ld. First Appellate Court, but could not find any jurisdictional error on the part of any Court nor could find any perversity that would vitiate the decree of eviction passed on the ground of owner's "reasonable and bonafide need for residence and occupation".

Before parting, I appreciate the sincere assistance of both the Ld. Counsels to the court for final disposal of this revision application at admission stage.

10. In view of the above, I pass the following order:-

ORDER:

- (i) The Civil Revision Application stands dismissed without costs.
- (ii) Pending Civil Application also stands dismissed.

- (iii) The petitioners shall vacate the suit premises and hand over the possession of the same to the present respondent -Plaintiff, within a period of three months from today.
- (iv) Rule stands discharged.

Pronounced in open court.

[AJIT B. KADETHANKAR, J.]

KBP