



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

WRIT PETITION NO. 9027 OF 2024

Madanlal Shantilal Khivsara

VERSUS

Santosh Vishvnath Shimpi

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Mr. G. D. Jain, Advocate for the Petitioner (Appointed through
Legal Aid)

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CORAM : ROHIT W. JOSHI, J.

DATED : 23RD JULY, 2025

PER COURT :-

. The present petition is filed challenging order dated 03.05.2023, passed by the learned Joint Civil Judge, Junior Division, Nandurbar on application at Exhibit 50, in Regular Civil Suit No.88 of 2018. The petitioner is original defendant in a suit for eviction filed under the Maharashtra Rent Control Act, 1999.

2. The petitioner had filed an application for temporary injunction vide Exhibit 50 in said suit inter alia praying that the plaintiff/landlord should not cause damage or destroy the structure of suit property during pendency of the suit. The said application was opposed by the plaintiff/landlord by filing reply at Exhibit 53.

3. The plaintiff has stated in the reply that the defendant has made unauthorised structural changes in the building in which the suit property is situated. It is stated that the defendant had removed a stair case in the building, as a

consequence of which, the plaintiff/landlord could not access the portion on the first floor of the building in his possession, due to which the upkeep and maintenance of the building became impossible resulting in the building becoming dilapidated. It is also stated in the reply that the defendant had closed the premises for inordinately long period and since, the entire building or unoccupied the same became dilapidated with passage of time.

4. The learned Trial Court has observed that the plaintiff had appraised the Municipal Council about the building being in a dilapidated condition and had also requested to grant permission to remove the western portion of the property on the first floor, which was in his possession. The learned Trial Court has recorded prima facie finding that the first floor portion of the building had collapsed naturally without any deliberate act of demolition. In such circumstances, the learned Trial Court has held that the defendant had prima facie failed to substantiate the allegations against the plaintiff. In the light of said observations, it is held that defendant had failed to make out any prima facie case, accordingly, the application at Exhibit 50 came to be rejected by the learned Trial Court.

5. Perusal of the order indicates that the learned Trial Court has taken into consideration the relevant factors while deciding the application. The plaintiff has alleged that the defendant is also not occupying the suit property and has made a new construction over an adjoining property. The

learned Trial Court has recorded a prima facie finding of fact that the building in which the suit property is located is in a badly dilapidated shape and first floor portion of the building had collapsed naturally without any overt act on the part of plaintiff. The findings do not appear to be perverse. The findings recorded by the learned Trial Court do not warrant any interference. Writ Petition is dismissed.

6. Fees of Mr. G. D. Jain, learned Advocate appointed to represent the cause of petitioner be paid through High Court Legal Services Sub Committee, Aurangabad, as per schedule.

7. Civil Application, if any, stands disposed of.

(ROHIT W. JOSHI, J.)