



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

**CIVIL REVISION APPLICATION NO. 21 OF 2025
WITH
CIVIL APPLICATION NO. 166 OF 2025**

Suganmal Sindhumal Sindhi

Deceased, through his LRs-

Ishwari Suganmal Sindhi-

Deceased, through his Legal Heirs>

- 1) Ashokkumar Suganmal Sindhi,
Age : 53 years, Occu: Business,
- 2) Rajendrakumar Suganmal Sindhi,
Age : 51 years, Occu: Business,
- 3) Kanhaiyalal Suganmal Sindhi,
Age : 48 years, Occu: Business.
Applicant No. 1 to 3 R/o Plot No.R-5,
Room No.1, Opposite Central Bank,
Kumarnagar, Sakri Road, Dhule,
District Dhule.
- 4) Indirabai Vinodkumar Sindhi,
Age : 56 years, Occ: Household;
R/o C/o Pooja Dresses,
Prop. Vinodkumar Sindhi,
Outside Railway Station, Hotel Punjab,
Ch. Sambhajinagar (Aurangabad).
District Ch. Sambhajinagar.

.. Applicants

Versus

Mustafa Abbasbhai Bohari,
Age : 54 years, Occu.: Business,
R/o: Burhani Shopping Complex,
Datta Mandir Chowk, Deopur,
Dhule, Dist. Dhule.

.. Respondent

- * **Mr. Rajendraa S. Deshmukh, Senior Advocate**
alongwith **Mr. Vikhyati Jain**
i/by **Mr. Devang R. Deshmukh**
Advocate for the Applicants.
- * **Mr. Subodh P. Shah**
Advocate for the Respondent.

CORAM : SHAILESH P. BRAHME, J.

Date On Which
Arguments were heard : 26th June 2025

Date On Which
Judgment is Pronounced : 3rd July 2025

J U D G M E N T :

. Heard both sides.

2. Applicant - Tenant is assailing judgment and decree of eviction passed by the trial Court in Regular Civil Suit No.199/2015 which is confirmed by Lower Appellate Court in Regular Civil Appeal No.80/2023 on 14.08.2024. Respondent had filed suit for eviction under the provisions of Maharashtra Rent Control Act (Hereinafter referred to as Act for the sake of brevity and convenience) on the ground of default, bonafide requirement and hardship.

3. The subject matter is a shop measuring 12 x 50 sqr. mtrs. which is part and parcel of City Survey No.1452 situated at Lane No.2 of Dhule City. It was let out by erstwhile owner Mr. Yashwant to Applicant - deceased Suganmal Sindhi for running a shop in the name and style - Shree Glass House. Respondent purchased City

Survey No.1452 including the suit property on 07.06.1997. It is pleaded by the Respondent that suit property had become dilapidated and notice was also received from Municipal Council for demolishing the property.

4. It's a case of Respondent that Applicant did not pay rent from 01.01.1997. The possession was required for demolishing the property. The relations between the parties were strained. Respondent wanted the suit property for his business and for carrying out construction of new building for grocery shop/super shop. It is further contended that premises in Burhani Complex which was at Deopur is not convenient as his brother was already running business therein. His elder son Murtuza also needed the premises for running business. The location of the suit property is centrally placed.

5. It is further contended that Applicant does not require the premises. He has City Survey Nos. 1440, 1443 and 1453 to run the business. The tenancy was terminated vide notice dated 20.02.2015. Thereafter suit was filed.

6. Applicant contested the suit on the ground that he runs business in the suit property which is in structurally good condition. The rent from 01.01.1997 was deposited in the Court up to 2014 and further rent was sent by demand draft. It is contended that City Survey No.1453 belongs to Barkha Rajesh and City Survey No.1440 is not in his possession. The need shown by the landlord is false and considering availability of suitable premises at Burhani Complex and others, no case is made out.

7. Both the parties adduced oral evidence and produced documents indicating availability of the premises as per rival contentions. Admittedly Applicant resorted to proceeding under Section 8 of the Act for fixation of the standard rent and permitted increases. It was contested by the Respondent. Application was allowed vide order dated 30.08.2011, fixing standard rent at Rs.250/- payable from January, 1993 and with permitted increases of 4%.

8. Learned Senior Counsel Mr. Rajendraa Deshmukh has placed on record a paper-book. He would submit that as per the determination of the standard rent, arrears have been deposited from 1997 till filing of the suit and there are no arrears. After filing of the suit also there is punctual payment of rent in the trial Court and thereafter in the Appellate Court. Hence it is contended that finding regarding default is perverse. It is further contended that both the Courts below overlooked that there is a payment of Rs.260/- per month considering the permitted increases and finding of arrears of Rs.52,500/- is perverse. It is further submitted that Respondent is very rich person and is already running his business at different places in and around Dhule City. The need is absolutely false and open premises adjoining suit property bearing CTS No.1452 is already in possession which has not been constructed by him. It is further contended that the finding that commercial properties at CTS No.1453/3, 1453/1 and 1440 are in possession of the Applicant is patently illegal.

9. Learned Senior Counsel would advert my attention to

admissions secured in the cross-examination of Defendant No.1 i.e. Respondent as well as Defendant No.2. It is submitted that issue of greater hardship has been incorrectly decided by both the Courts below. The properties available to the Respondent have not been taken into account. The goodwill created at the suit property has been overlooked.

10. Per contra, Mr. Subodh Shah learned Counsel for the Respondent would support both the judgments. He would submit that Applicant never paid 4% of the annual increases which was directed to be paid from January 1993. Payment of Rs.260/- per month for some period cannot be the compliance of order dated 30.08.2011. It is vehemently contended that no evidence was placed on record neither in the trial Court, nor in Appellate Court regarding payment of arrears of rent from 01.01.1997 till June 2015. It is submitted that there is considerable distance between the suit property and Burhani Complex in which Respondent's brother is running business. The issue of comparative hardship has been properly dealt with by both Courts below. It is further contended that already three premises are available for the Applicant to run the business and he could have acquired suitable premises. It is further submitted that no interference is called for in the concurrent finding of facts.

11. Learned Counsel Mr. Shah relies on following judgments :

- (a) Smt. Sulochanabai Kashinath Gujar Vs. Krishnabai Dhantram Ugvekar and Others, 2001 SCC OnLine Bom 464.
- (b) Abdul Gani s/o Sheikh Hasam Vs. Dilip Gopaldas Duwani and Another, 2022(5) Mh.L.J. 514)

- (c) Krishna Kumar Rastogi Vs. Sumitra Devi (2014) 9 SCC 309
- (d) Ujwalabai @ Meena Shantaram Apte Vs. Namdeo Dnyanoba Shingare (2001(4) Mh.L.J. 545)

12. I have considered rival submissions of the parties. Both the Courts below decreed the suit on the ground of default and bonafide requirement. As per order dated 30.08.2011 passed in Miscellaneous Civil Application No.53/2007, standard rent of Rs.250/- was fixed which was payable from January, 1993 with a rider of annual increases of 4%. Respondent filed suit on 21.07.2015, claiming arrears from 01.01.1997 till filing of the suit to the tune of Rs.52,500/-.

13. The landlord is entitled to claim possession on the ground of default of rent and the permitted increases as per Section 15 of the Act. The ground of default is applicable for rent as well as permitted increases. Applicant was under obligation to pay rent of Rs.250/- per month from January, 1993 and from January, 1994, monthly rent in addition to 4% increases. Likewise the demand of the Respondent for arrears was from 01.01.1997. The amount of rent with permitted increases payable from 01.01.1997 was definitely more than Rs.260/- per month. There is nothing on record that Applicant paid such arrears. No receipt or any tangible document is produced on record and proved by the Applicant to indicate payment of arrears. At-least in the Lower Appellate Court, Applicant could have resorted to Order 41 Rule 27 of CPC for producing the documentary evidence to show the payment. Only few photo copies of the receipts were shown which were neither produced before the trial Court, nor exhibited. That cannot

be said to be compliance of payment of arrears of rent and permitted increases.

14. In this Court also, learned Senior Counsel Mr. Rajendraa S. Deshmukh has tendered across bar photocopies of few receipts and applications with orders indicating payment @ Rs.260/- per month. But these documents do not show payment from January, 1997 to June 2015. There is absolutely no evidence on record for payment of arrears of rent and permitted increases. Both the Courts below have rightly held that Respondent is entitled to decree of eviction on the ground of default.

15. Just because the Respondent-landlord is having immovable properties at various places and even open premises for construction, cannot be a ground to castigate his bonafides. Landlord is the best judge of his need. Neither Court, nor tenant can impose that landlord should have conducted business in a particular premises only. Respondent is expanding his business and requiring premises for the business of his son. He comes up with a theory that part of CTS No.1452 has become dilapidated and part of it is open. He is desirous of constructing a building at that place to accommodate need of his family to run business.

16. It has come on record that Burhani shopping Complex at Deopur is at about 3.5 kilo meter from the suit premises. At that place, his brother is running business. The licence of super shoppe is in the name of his brother. No convincing material is on record that Respondent is allotted any part part in the Complex and he can run business. Besides that, it has come on record that

Respondent and his five brothers are not in good terms. Those five brothers are looking after the Complex. The clarification given by the Respondent in paragraph no.63 of his cross-examination would be sufficient to infer that there is no premises at Burhani Complex to run business and even if it is assumed that some premises is available, it is not possible for the Respondent to commence any business at that place.

17. There is nothing on record to show that the business of the family behind Raj Kamal Talkies can be said to be suitable and available premises for the Respondent. No material is placed on record to show that it was exclusively owned by Respondent and in his possession. Although attempts are made by the Applicant to show that in the vicinity, premises are available for the Respondent to run business, there is no concrete material on record to show that the premises are suitable and would satisfy the need of Respondent. It is trite law that Landlord is the best judge of his need. I find that both the Courts below have rightly considered oral and the documentary evidence to conclude that there is a bonafide requirement. The submission of learned Senior Counsel has no merit.

18. Both the Courts below have considered the comparative hardship. It has come on record that a plot in CTS No.1453/3 was purchased by Applicant which is larger in size than suit property. It is available for running business. It has come on record that the said plot is adjacent to the suit property. Their house constructed at Plot No.644 is also one of the factors considered by the Courts below.

19. It has come on record that Applicant agreed to purchase a plot at CTS No.1440 and succeeded in Special Civil Suit No.34/2013 for specific performance of contract. Thus the said property is also available to the Applicant. I find that Applicant is of sound financial condition and suitable premises are available with them which are rightly noted in paragraph no.22 of the judgment of Lower Appellate Court. Both the Courts below have rightly dealt with the issue of comparative hardship. Learned Senior Counsel has referred to the cross-examination of the PW-1 and PW-2, but he is unable to point out any material admission to show that requirement of landlord is not bonafide. I find that no case is made out by the Applicant to cause any interference in the impugned judgment and order.

20. Respondent relies on the judgment in the matter of Smt. Sulochanabai Kashinath Gujar (supra) for the propositions that High Court cannot re-appreciate the evidence as well as it is prerogative of the landlord to decide about his requirement. Considering paragraph nos. 9 and 10 of the judgment, I find that no case is made out by the Applicants to cause any interference in the impugned judgment and decree.

. Further reliance is placed on the matter of Ujwalabai @ Meena Shantaram Apte (supra), my attention is adverted to paragraph no.5 to buttress the submission that tenant is obliged to pay rent as well as permitted increases. Following the said principles, I find that the case is made out by landlord for default.

21. Reliance is relied on the judgment in the matter of Krishna Kumar Rastogi (supra). I have gone through paragraph nos. 9 and

10 which inter-alia referred to judgment of High Court in the matter of Mohd. Ayub Vs. Mukesh Chand, (2012) 2 SCC 155. Both the Courts below have rightly considered the requirement of the Respondent-landlord in the wake of the principles laid down in the judgment.

. Lastly reliance is placed on the judgment in the matter of Abdul Gani s/o Sheikh Hasam (supra). In paragraph no.11 of the judgment, learned Single Judge reiterated settled legal position that landlord is the best judge of his bonafide need and when multiple premises are available, it would be subjective exercise of landlord. I find that in the case at hand Applicants failed to establish that alleged alternate premises are suitable to satisfy the need.

22. In the result, I find no merit in the Civil Revision Application. Civil Revision Application is dismissed. There shall be no order as to costs.

23. Civil Application is disposed of.

[SHAILESH P. BRAHME]
JUDGE

NAJEEB..