



Corrected Order : In view of speaking of minutes of order dated 24.12.2025, the order is corrected.

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

**CIVIL REVISION APPLICATION NO. 130 OF 2025
WITH
CIVIL APPLICATION NO. 13001 OF 2025 IN CRA/130/2025
VINOD GOPALAN PUTANPURE
VERSUS
SAU. JYOTI ANIL SHAH**

...

Advocate for Applicant : Wani Girish V.
Advocate for Respondent : Mr. Amit Ashok Yadkikar

**CORAM : SHAILESH P. BRAHME, J.
DATE : 03.12.2025**

PER COURT :

Heard both sides finally with their consent.

2. The applicant original defendant has approached this Court against decree of eviction passed by lower Appellate Court in Regular Civil Appeal No. 168/2022 on 15.11.2024. The respondent-landlord had instituted Regular Civil Suit No. 186/2010 for eviction under the Maharashtra Rent Control Act, 1999 (hereinafter referred to as 'the Act' for the sake of brevity) on the ground of subletting, *bona fide* requirement and carrying out permanent structure without permission. She was non suited on all counts by Trial Court. The lower Appellate Court passed the decree on the ground of *bona fide* requirement only. Therefore, matter proceeds within narrow compass of *bona fide* requirement and comparative hardship.

3. The respondent purchased the property-plot No. 79 on 07.04.2004 at Jilha Peth, within Municipal limits of Jalgaon. It's ground floor measuring 123.22 square meter comprising of five rooms was in possession of the applicant, which was let out for business. The possession is solicited for respondent's elder son Jay, who is a Chartered Accountant and younger son

Gunjan, a practising lawyer, to establish their offices. Jay had his office in a rented premises and he was asked to vacate the same. The first floor of the building was dilapidated in nature and was of no use to the respondent. As against that it is pleaded that applicant's financial condition is extremely sound. He is director of Akshay Automobiles as well as Vijayalaxmi Automobiles having huge turnover. The premises at Navi Peth opposite of Central Bank was available which is within the vicinity of the suit property. Alternate premises were available to the applicant.

4. The respondent adduced oral evidence of herself and seven other witnesses including her sons and the landlord of one of the sons. The applicant adduced evidence of himself and two other witnesses. The Trial Court dismissed the suit on 03.11.2022. Being aggrieved, Regular Civil Appeal No 168/2022 was filed and it was allowed partly on 15.11.2024 directing the applicant to handover possession within three months.

5. The learned counsel for the applicant Mr. Wani submits that the Trial Court elaborately dealt with ground of *bona fide* requirement and hardship. But the lower Appellate Court did not assign specific reasons for setting aside the findings. All aspects of the matter have not been dealt with by the Lower Appellate Court, which amounts to error of jurisdiction. It is submitted that the plea that elder son was sought to be evicted by his landlord is concocted. It is vehemently submitted that the first floor comprising of near about five rooms is vacant and in possession of the respondent and the offices of the sons could be housed in it. It is further submitted that the lower Appellate Court committed patent illegality in granting decree of eviction.

6. It is submitted that **appellant** is doing business of selling of tyres, which can be suitably done at ground floor. A good will has been created and it would be causing hardship to shift the business. It is submitted that the plea of partial eviction can be taken into account so as to accommodate

the offices of the sons of the respondent in part of the premises. Lastly, reliance is placed on the civil application and documents annexed thereto to show that, the theory that property in question has become dilapidated, is after thought and false.

7. The respondent has placed reliance on summary of arguments by tendering it across the bar. The learned counsel Mr. Yadkikar would submit that the applicant runs multiple businesses. He is shareholder and extremely well off. It is submitted that presently he has closed earlier business and runs a restaurant under the name and style "Tyre Life Annaji's Kitchen". He is stated to be owner of huge plot at Pimprala and Mehrun. During pendency of suit he is stated to have sold plot CTS No. 2030. It is submitted that lower Appellate Court has taken into account the material on record and rightly arrived at the conclusions.

8. I have considered rival submissions of the parties. Respondent examined herself, her sons, PW 4 Jay, PW 7 Gunjan and P.W. 6 Rajendra to make out a case for *bona fide* requirement and hardship. By making amendment to the plaint it was brought on record that the applicant was the director of Akshay Automobiles, which was having registered office at Masjid Bandar Mumbai. His another company Vijayalaxmi Automobiles was housed in three story building at Navi Peth at Jalgaon, which is within close proximity. It has been specifically pleaded that although first floor of the building is vacant, it is dilapidated one.

9. The lower Appellate Court has dealt with point no. 1 regarding *bona fide* requirement and point no. 4 of comparative hardship. The appellate Court has discussed the relevant ground of eviction in paragraph nos. 19 to 21 elaborately by assigning reasons. The need of the landlord to have the suit premises to accommodate office of elder son Jay as a Chartered Accountant and younger son Gunjan as a lawyer, cannot be said to be fanciful, imaginary or clumsy. The expectation of the landlord is reasonable.

Neither the applicant nor any Court can dictate the need of the landlord. He is best judge of his own need. The lower Appellate Court has applied armchair rule in assessing the requirement of landlord and has arrived at plausible and just conclusion to accept landlord's case.

10. The judgment of the Trial Court reveals that the plea set out by the landlord that elder son Jay was under threat of eviction is dealt in more details. Even if it is accepted that there is no any possibility of eviction from landlord Rajendra Shah, still to aspire an office in ones own accommodation cannot be said to be unreasonable. Merely because Rajendra Shah is close relative of the landlord would not be a ground to doubt the bona fide requirement to have an office in the demised premises for elder son Jay. The judgment of the lower Appellate Court does not become vulnerable for not dealing with that aspect of the matter in greater detail.

11. It has been already pleaded by the respondent and established that the first floor is of no use because it is dilapidated in nature. Neither tenant nor Court can dictate the landlord as to the suitability of the premises. It is sole prerogative of the respondent to select place to have the offices of her sons at the ground floor. It has been pointed out by Mr. Yadkikar that the applicant has started a restaurant. A photo copy of licence secured from the competent authority is placed on record. It is not necessary for this Court to go into the details, but the plea of the applicant that ground floor is more suitable for the business is doubtful.

12. While considering hardship, material was placed on record to show financial status and availability of premises. The applicant was promoter of two automobile companies, albeit he resigned from one of them. He has stakes in them. Following are the immovable properties found to be available with the applicant :

- (i) Plot measuring 144 squire meter at Pimprala, proved by Exh. 120.

- (ii) Plot No. 155 measuring 278.70 square meter,
revenue extract at Ex. 130.

13. It has been brought on record that on 12.05.2008 plots at Mehrun were sold by the applicant during pendency of the suit. CTS No. 2030 at Navipeth was sold, which is evidenced by Exh. 136. I find that the findings of the lower Appellate Court in respect of financial status and potential of the applicant are well founded. No hardship at all would be caused to the applicant. No tangible material is placed on record to indicate that he is unable to conduct the business at any other premises. It is rightly contended by Mr. Yadkikar that trial Court showed misplaced sympathy to the applicant. I do not find any perversity or illegality in the findings recorded by the lower Appellate Court.

14. For the first time, a plea of partial eviction has been pressed into service by learned counsel Mr. Wani. No submissions were made in both the Courts below in that regard. Reliance is placed on the judgment of **Jain Supari Centre and others Vs. Shri. Rameshlal Motilal Hasoriya and others; 2022 (5) ALL MR 184**. I have considered paragraph nos. 12 to 14 of the judgment. The facts are distinguishable from the case at hand. I have confirmed the finding that requirement of landlord is *bona fide* and greater hardship would be caused to the landlord. The financial condition of the applicant is sound and no loss would be caused to him by decree of eviction. The plea raised would not enure to the benefit of the applicant.

15. Mr. Yadkikar has placed reliance on following judgments to support *bona fide* requirement :

- (i) **Kanahaiya Lal Arya Vs. Md. Ehshan and others; 2025 SCC OnLine SC 432.**
 (ii) **Suhasini Atmaram Parab & others Vs. B.H. Khatu and others; (2003) 1 Bom CR 733.**
 (iii) **Murlimanohar and others Vs Prabha Bhattacharya; 2005(2) Mh.L.J. 853.**

(iv) **Shankar Bhairoba Vadangekar Vs. Ganpati Appa Gatare; 2001(4) Bom CR 806.**

(v) **Parashram Tuljaram Belhekar since deceased through his L.Rs. Vatsalabai w/o Parashram Belhekar and others Vs. Tejmal @ Kankamal Mulchand Jain deceased by his L.Rs.; 2007 (2) Mh.L.J.**

(vi) **Atma Ram Properties (P) Ltd. Vs. Federal Motors (P) Ltd.: (2005) 1 Supreme Court Cases 705.**

To avoid the repetition, I am not dealing with those judgments in details but the ratio laid down for assessing *bona fide* requirement of a landlord has been applied to the case at hand. It is apposite to rely on paragraph no. 13 of the judgment of learned Single Judge in the matter of **Murlimanohar and others (supra)**

“13. The rulings of the Hon’ble Apex Court reported at (1996) 5 SCC 353 and 1999(6) SCC 224 show that the landlord is best judge insofar as his requirement is concerned and he is also entitled to beneficial enjoyment of his property. The tenant cannot dictate that the landlord must be accommodated in such a way that tenant can also continue in the premises. The Hon’ble Apex Court has said that the Authority adjudicating the fact is placed itself in the armchair of the landlord and decide question whether in the given facts substantiated by the landlord need to occupy the entire premises can be said to be natural, real, sincere and honest. It will thus be seen that in the facts of the present case there is nothing on record to show that the need of respondent of the entire premises is either *mala fide* or unreal.”

16. This court is guided by the principles laid down by the Supreme Court in the matter of **Hindustan Petroleum Corporation Ltd. Vs. Dilbahar Singh; (2014) 9 Supreme Court Cases 78**, laying down the scope of revision in the matters of eviction. I find that the applicant failed to make out any case to

exercise jurisdiction under Section 115 of the Code of Civil Procedure. Hence, I pass following order :

ORDER

- (a) The Civil Revision Application is dismissed.
- (b) Pending Civil Application No. 13001 of 2025 is disposed of.

(SHAILESH P. BRAHME, J.)

17. After pronouncement of the operative part, learned counsel for the applicant prays for protection to his possession so as to enable his client to approach the Supreme Court. It is further pointed out that tomorrow is the date scheduled in the execution proceedings.

18. Learned counsel for the respondent opposes the request. It is pointed out that the Appellate Court passed decree on 15.11.2024 and the matter was not circulated on earlier occasion. Its not a fit case to protect the possession of the applicant/tenant.

19. Impugned judgment was passed by the lower Appellate Court on 15.11.2024. Present Civil Revision Application was filed on 18.12.2024. I am of the considered view that eviction decree itself is a sufficient exigency in the matter, notwithstanding filing or prosecuting the execution proceedings by the landlord. For about one year, no endeavor has been made to circulate the matter. Besides that, on merits, *bona fide* requirement of the landlord has been established. Considering the comparative hardship and especially the financial position of the applicant, I find that the request for protection of possession cannot be countenanced.

20. The request is rejected.

(SHAILESH P. BRAHME, J.)

mkd/-