

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.559 OF 2024**

Satyashil Somnath Kadam,
Age: 54 Years, Occu.: Bond Writer,
Residing at Sanjay Nagar,
Kumtha Naka, Solhapur

.....Applicant

Vs.

1. Mohmad Yunnus Haji Abdul Sattar,
Qureshi, Age: 70 Years,
Occu.: Business, Residing at Municipal
House No.102-D Railway Lines,
New Tirhegaon Forest,
In front of Ayyar Hospital,
Solhapur – 413 001.

2. Rahul Purushottam Nagtilak,
Age: 57 Years, Occu.: Service,
Residing at Municipal
House No. 102-D Railway Lines,
New Tirhegaon Forest,
In front of Ayyar Hospital,
Solhapur – 413 001.

.....Respondents

**WITH
INTERIM APPLICATION NO.11038 OF 2025
IN
CIVIL REVISION APPLICATION NO.559 OF 2024**

Satyashil Somnath Kadam,
Age: 54 Years, Occu.: Labour,
Satyashil Somnath Kadam,
Age: 54 Years, Occu.: Bond Writer,
Residing at Sanjay Nagar,
Kumtha Naka, Solhapur

.....Applicant

In the Matter in Between:

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Age: 54 Years, Occu.: Bond Writer,
Residing at Sanjay Nagar,
Kumtha Naka, Solhapur

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Vs.

1. Mohmad Yunnus Haji Abdul Sattar,
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New Tirhegaon Forest,
In front of Ayyar Hospital,
Solhapur – 413 001.

.....Respondents

Mr. Laxman Kalel, for the Applicant.
Mr. Pradeep Salgar, for the Respondents.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 16th OCTOBER 2025

JUDGMENT :-

1. The petitioner/original defendant No.1 impugns Judgment and Decree dated 19th March 2024 passed by District Judge-2, Solapur in Regular Civil Appeal No.36 of 2023, thereby passing decree of eviction in favour of Respondent No.2, as claimed in Regular Civil Appeal No.36 of 2023.

2. The Respondent No.1 instituted proceedings for recovery of possession and arrears of rent in respect of house property bearing Municipal House No.102, City Survey No.8347/2A situated at Railway Line, Tirhegaon Forest, Solapur. The suit property consists of two rooms constructed on first floor. It is contention of plaintiff that on 31st July 1997, he has purchased suit property from Abul Hamid under registered sale deed. The defendant No.1 is a tenant in suit property, since before purchase of suit property by the plaintiff. Presently, defendant No.1 is residing with his son. He do not require suit property, however, he wants to continue possession and enjoyment due to meager rent. According to plaintiff, defendant No.1 never paid rent to him. He has sub-let the part of suit house to defendant No.3.

3. Plaintiff wants suit property for his *bona fide* and personal use. Plaintiff has terminated tenancy vide notice dated 8th September 2015 with effect from 30th September 2015. Eventually, plaintiff prayed for decree of eviction and recovery of possession.

4. Defendant No.1 filed written statement and resisted claim of plaintiff. The trial Court framed issues, recorded evidence of parties

and finally dismissed the suit observing that plaintiff failed to prove default in payment of rent on the part of defendant No.1 or sub-letting suit property to defendant No.3 or his *bona fide* requirement.

5. Aggrieved plaintiff filed Regular Civil Appeal No.36 of 2023 before District Judge at Solapur. Learned District Judge, after hearing parties, uphold contention of plaintiff that suit property is *bona fidely* required for his personal use and occupation and plaintiff would suffer greater hardship, if decree of eviction is refused.

6. Aggrieved defendant No.1 filed present Civil Revision Application impugning Judgment and Decree passed by learned District Judge.

7. Mr. Laxman Kalel, learned Advocate appearing for Applicant vehemently submits that District Judge has recorded erroneous finding on the point of *bond fide* requirement of plaintiff, so also comparative hardship. By inviting attention of this Court to deposition of plaintiff, he would submit that plaintiff has admitted during his cross-examination that City Survey No.8191 admeasuring 206.5 Sq.Mt. is owned by him, so also City Survey No.8176/2 is

transferred by way of *Hibba* to plaintiff's brother. On the basis of aforesaid admission, learned Advocate appearing for Applicant submits that plaintiff's contention on the point of *bona fide* requirement of suit premises is liable to be discarded. He would further submit that defendant No.1 do not have any property in his name. Therefore, issue of comparative hardship ought to have been decided in his favour.

8. Per contra, learned Advocate appearing for Respondent/plaintiff supports impugned order. He submits that learned District Judge had recorded adequate reasons on the point of *bona fide* requirement of plaintiff, so also comparative hardship. Therefore, no interference is required to be caused in impugned order, while exercising revisional jurisdiction. In support of his contention, he relied upon the observations of Supreme Court in case of ***Shiv Sarup Gupta v. Mahesh Chand Gupta***,¹ ***Kanahaiya Lal Arya v. Md. Ehshan & Ors.***,² ***Mohd. Ayub & Ors. v. Mukesh Chand***.³

9. Having considered submissions advanced by learned Advocates appearing for respective parties, contentious issue that arises in this

¹ (1999) 6 SCC 722.

² AIR 2025 SCC 1297.

³ AIR 2012 SC 881.

Civil Revision Application is as to whether plaintiff/landlord has proved his *bona fide* requirement as to suit property and whether learned District Judge is justified in concluding issue of comparative hardship in favour of plaintiff.

10. It can be observed that plaintiff has specifically deposed that his family consists of almost 10 members including his wife, three sons, their wives, son's daughter and one married daughter and her son, apart from another visiting married daughter and another son. He has occupied one room on ground floor and one room on the first floor alongwith toilet and bathroom, which is insufficient to accommodate his large family. It is true that plaintiff has admitted during his cross-examination that he owns a property bearing City Survey No.8171 admeasuring 206.5 Sq.Mtr. and another property bearing City Survey No.8176/2 has been transferred by him in the name of his brother by way of *Hibba*. However, further particulars of said properties are not on record. Whether those properties are sufficient and suitable to accommodate plaintiff's family cannot be ascertained from the aforesaid admission. On the other hand, it can be gathered that City Survey No.8171 is occupied by other tenants.

11. In the aforesaid background, reference can be given to observations of Supreme Court in case of Shiv Sarup Gupta (supra), in paragraph No.12, which reads thus:

“12..... The words ‘need’ and ‘require’ both denote a certain degree of want with a thrust within demanding fulfilment. ‘Need’ or ‘requirement’ qualified by word ‘bonafide’ or ‘genuine’ preceding as an adjective – is an expression often used in Rent Control Laws. ‘Bonafide or genuine need’ of the landlord or that the landlord ‘genuinely requires’ or ‘requires bona fide’ an accommodation for occupation by or use for himself is an accepted ground for eviction and such expression is often employed by Rent Control legislation draftsman. The two expressions are interchangeable in practise and carry the same meaning.”

12. It is further observed in paragraph No.13 of the aforesaid Judgment as under:

“13..... The court would permit the landlord to satisfy the proven need by choosing the accommodation which the landlord feels would be most suited, for the purpose; the court would not in such a case thrust its own wisdom upon the choice of the landlord by holding that not one, but the other accommodation must be accepted by the landlord to satisfy his such need. In short, the concept of bonafide need or genuine requirement needs a practical

approach instructed by realities of life. An approach either too liberal or too conservative or pedantic must be guarded against.”

13. In light of aforesaid observations, even if it is accepted that landlord had other premises for his own accommodation, the tenant cannot insist that landlord should have chosen the other premises for his accommodation rather the premises occupied by him. Certainly, landlord would have choice to occupy the suitable premises for his family. In present case, there is hardly any dispute that plaintiff got a big family consisting of ten members. His contention that the property occupied by him is insufficient and he needs two other rooms occupied by defendants cannot be rejected. The learned District Judge has rightly appreciated aforesaid aspect and accepted plaintiff's *bona fide* need of suit premises.

14. Insofar as the comparative hardship is concerned, Appellate Court has rightly observed that three sons of defendant No.1 have constructed three independent houses in the city of Solapur. The defendant No.1 has admitted in his evidence that his elder brother is in service with Indian Railway. He is having independent bungalow. His another brother Sunil has his own house.

15. In these circumstances, while considering hardship, landlord must be given some preference, particularly when the defendant/tenant do not show that in spite of his efforts, alternate suitable premises could not be acquired by him or it is beyond his capacity to find out suitable accommodation. The District Court has rightly relied upon admissions of defendant and decreed the suit of plaintiff. Apparently, defendant is a retired teacher, his sons are educated having own accommodation. Plaintiff pleaded that defendant No.1 resides with his son. Hence, plaintiff's need must be given preference.

16. In light of aforesaid observations, no infirmity or jurisdictional error can be found in impugned order passed by District Judge. Hence, the Civil Revision Application is rejected.

17. In view of disposal of Civil Revision Application, nothing survives for further consideration in Interim Application No.11038 of 2025 and the same shall also stand disposed of.

(S. G. CHAPALGAONKAR, J.)

18. At this stage, learned Advocate appearing for Applicant seeks continuation of interim protection granted by this Court vide order dated 30th April 2025.

19. For the reasons as stated in aforesaid Judgment, such prayer cannot be accepted. Hence, prayer for continuation of interim relief stands rejected.

(S. G. CHAPALGAONKAR, J.)

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