



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11782 OF 2024**

Leela Dattatray Kulkarni and Anr. ... Petitioners
versus
Manjula Durgashankar Dave and Ors. ... Respondents

Mr. S.C.Wakankar with Ms. Aishwarya Bapat for Petitioners.
Mr. Shailendra S. Kanetkar, for Respondents.

CORAM: N.J.JAMADAR, J.

DATE : 16 JUNE 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to a judgment and decree dated 9 May 2024 passed by the learned Principal District Judge, Pune in Regular Civil Appeal No.618 of 2016, whereby the appeal preferred by Respondent Nos.1 to 3 – Plaintiffs, came to be allowed by setting aside the judgment and decree dated 2 June 2016 passed by the learned Judge, Court of Small Causes, Pune in RCS No.444 of 2012 and thereby directing the eviction of the Petitioners – original Defendant Nos.2 and 6 and the co-defendants.
3. Respondent Nos.1 to 3 – Plaintiffs – landlord had instituted a suit being RCS No.444 of 2012 for regaining the possession of the demised premises and recovery of the arrears of rent and taxes on the ground of default in payment of rent and non-user of the demised premises for over six months

prior to the institution of the suit. The Plaintiffs, inter alia, asserted that since the year 2003, the Defendants / tenants were not using the demised premises and it was kept in a locked state and on account of non-user of the demised premises, there was extensive damage to the suit premises.

4. Learned Civil Judge was persuaded to dismiss the suit observing, inter alia, that the Plaintiffs failed to establish that the Defendants committed default in payment of rent and the non-user was without a reasonable cause. The fact that the WC unit was extensively damaged and even had no door, weighed with the Trial Court in returning a finding that the Plaintiffs failed to establish that the demised premises has not been used without reasonable cause for a continuous period of six months immediately preceding the date of the suit.

5. Being aggrieved, the Plaintiffs preferred an appeal. In RCA No.618 of 2016, the learned Principal District Judge was persuaded to partly allow the appeal. Learned Principal District Judge concurred with the view of the Trial Court that the Plaintiffs failed to establish the ground of default in payment of rent. However, in the view of the learned Principal District Judge, a clear case of non-user without reasonable cause within the meaning of clause (n) of Section 16(1) of the Maharashtra Rent Control Act, 1997 was made out.

6. Mr. Wakankar, learned Counsel for the Petitioners, urged that though the fact that the demised premises has not been used for the purpose for

which it was let out cannot be controverted, yet, the learned Principal District Judge was in gross error in returning a finding that there was no reasonable cause. Mr. Wakankar invited attention of the Court to the contentions in the Written Statement and the purported admissions in the cross-examination of the Plaintiffs' witnesses. It was submitted that once it was conceded by the Plaintiffs that the demised premises was in a dilapidated state, WC unit had suffered extensive damage and even had no door, unless the Plaintiffs established that, they had made tenantable repairs, it cannot be said that there was no reasonable cause for the Defendants not to occupy the demised premises.

7. In contrast, Mr. Kanetkar, learned Counsel for the Respondents, invited attention of the Court to the fact that since the year 2003, the Defendants have not been using the demised premises. Attention of the Court was invited to the admissions in the cross-examination to the effect that the Defendant No.2 had constructed a big house at Satara. She had never called upon the landlord to carry out repairs of the staircase and the WC unit.

8. Learned Principal District Judge has taken a correct view of the matter. There is material to indicate that since the year 2003, the Defendants have not been using the demised premises for the purpose it was let out, and the said assertion of the Plaintiffs has gone, in a sense, untraversed. Indeed, the non-user is not a matter of contest. The thrust of the submission on behalf of

the Defendants that on account of the extensive damage to the WC Unit, the Defendants were constrained to stay away from the demised premises and that constituted a reasonable cause, does not appeal to human credulity. It defies comprehension that the Defendants would not have called upon the landlord to either carry out the tenantable repairs or permit the Defendants to carry out such repairs since the year 2003 when the non-user commenced.

9. The contemporaneous conduct of the Defendants coupled with the facts that the Defendant No.2 had constructed a big house in Satara and had been residing thereat, and other co-Defendants were residing at different places, lead to an inescapable inference that the non-user was without reasonable cause.

10. No interference is, thus, warranted in exercise of the writ jurisdiction.

11. The Writ Petition stands dismissed.

(N.J.JAMADAR, J.)