



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 320 OF 2025

Arun S/o Wamanrao Mandokar
Vs.
Lata Wd/o Ashok Gorkhe and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. D.N. Mehta, Advocate for petitioner.

CORAM : ANIL L. PANSARE, J.

DATE : 20.01.2025.

Heard the learned counsel for petitioner – tenant is before this Court against the concurrent findings of the Courts below. Both the Courts were of the view that the respondents' landlord made out the case under Section 16(1)(k) of the Maharashtra Rent Control Act, 1999, for recovery of possession.

2. Having heard the learned counsel for petitioner and having gone through the record placed before me, it appears that NIT – competent authority had issued two notices Exhibit 59 and 60 to the landlords to demolish unauthorized construction which includes suit shop.

3. What is evident is that apart from the evidence, it was the petitioner's argument before the

Court below that the landlords, despite having knowledge that the construction of the suit shop is illegal, he let out the same to the tenant. Thus, the evidence, as regards the suit shop being illegal is writ large.

4. The evidence further indicates that the suit shop and surrounding premises were in dilapidated conditions and therefore, the landlord had, except the suit shop, demolished the other part of the premises.

5. In the light of the above, the contention of the petitioner will have to be considered. The argument is that the Court has to independently examine whether there was immediate purpose of demolition. The learned counsel has relied upon the judgment of the Supreme Court in the case of *Baitulla Ismail Shaikh and anr. Vs. Khatija Ismail Panhalkar and Ors, 2024 SCC Online SC 84* to contend that despite such notice issued by the competent authority to remove the structure, the Court is duty bound to examine whether there was immediate need of demolition.

6. I have gone through the judgment. What has been held by the Hon'ble Supreme Court is that the Court trying an eviction proceedings under the provisions of Section 16(1)(k) of the Act, 1999, has very limited role in determining as to whether demolition is really necessary or not, but it does not automatically follow therefrom that the Court would mechanically adopt the view of

municipal authority of there being urgent need of demolition.

7. Thus, the Court has a limited role in determining as to whether the demolition is really necessary or not, though mechanical approach should be avoided.

8. In the present case, the evidence that the premises containing suit structure was in dilapidated condition, is a reason sufficient enough to bring within the ambit, the cause under Section 16(1)(k) of the Act, 1999.

9. The learned counsel for the petitioner submits that the suit shop was let out to tenant in the year 2005 and the map was sanctioned in the year 2013. According to him, it was a novel way of terminating the tenancy. This argument doesn't attract any substance inasmuch as the tenant himself, came up with a case that the suit shop was illegal. If with such knowledge, the tenant occupies the premises he carry a risk of his removal at any time.

10. In view thereof, I do not find any reason to interfere with the concurrent findings so rendered by the Court below in the supervisory jurisdiction under Article 227 of the Constitution of India.

11. The writ petition is dismissed accordingly. No order as to costs.

(ANIL L. PANSARE, J.)