



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

WRIT PETITION NO.5880/2022

Iqbalsingh S/o Raghuvirsingh Chhana

...Versus...

Umesh S/o Laxminarayan Shriwas and another

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

Court's or Judge's orders

Mr. D.C. Chaahande, Advocate for petitioner
Mr. R.N. Sen, Advocate for respondents

CORAM : ROHIT W. JOSHI, J.

DATE : 17/11/2025

1. The respondents had filed a suit for eviction against the present petitioner under Sections 15 and 16 of the Maharashtra Rent Control Act, 1999 (for short hereinafter referred to as "MRC Act"). The case of *bona fide* need raised by the respondents is disbelieved by both the learned Courts. However, the learned trial Court has recorded that the petitioner/tenant was in arrears of rent for a period of more than three months and has accordingly passed a decree for recovery of money against the petitioner/tenant. However, decree for eviction is not granted on the ground that in the notice dated 12/04/2012, issued under Section 15 of the MRC Act, period of 15 days time was granted for clearing arrears of rent, as against 90 days, which is contemplated under the provision.

2. The respondents, being aggrieved by the refusal on the part of trial Court to grant decree for eviction preferred

an appeal. The learned Appellate Court has upheld the findings with respect to *bona fide* need. However, the learned first Appellate Court has passed the decree for eviction on the ground that despite receipt of the notice under Section 15 of the MRC Act, the petitioner/tenant did not clear arrears of rent within the stipulated period of 90 days and further also did not deposit the rent with interest in the Court within a period of 90 days from the date of service of suit summons.

3. Mr. Chaahande, learned Advocate for the petitioner contends that the sister of the respondent No.1/landlord had filed a suit for partition and separate possession being Regular Civil Suit No.7/2007, in which the petitioner was also made a party and therefore, the petitioner/tenant did not make payment of rent, in view of dispute *inter se* between the respondent No.1 and his sister as regards ownership of the suit property. The said suit was dismissed on merits vide judgment and decree dated 20/04/2011. The said fact is not in dispute and the judgment in the said suit is filed on record by the petitioner as Annexure-2 in the present petition. As on the date of issuance of notice under Section 15 of the MRC Act, there was no dispute as regards ownership over the suit property. The first contention is, therefore, rejected.

4. Mr. Chaahande further contends that the notice is defective for two reasons, firstly that the notice period, as contemplated under Section 15 of the MRC Act should be 90 days, whereas, admittedly the period specified for deposit of rent in the notice is only 15 days and secondly, on the ground that as against the agreed rent of Rs.500/- per month, demand

of rent of Rs.1,000/- per month has been made

5. As regards the first contention regarding legality of notice, it is not in dispute that the suit is filed beyond the period of 90 days from the date of service of the demand notice on the petitioner. Perusal of Section 15 (2) of the MRC Act will demonstrate that only prohibition against filing a suit for possession on the ground of non-payment of rent is that a suit shall not be instituted until expiration of 90 days from the date on which notice of demand in writing is served on the tenant. The provision does not contemplate that notice issued by the landlord should call upon tenant to clear the arrears of rent within a period of 90 days. The contention with respect to the period specified in the notice is, therefore, rejected.

6. As regards the amount of rent, even if, it is assumed that rent was payable @ Rs.500/- per month and not Rs.1,000/- per month, it is now well settled that in case where there is a dispute pertaining to quantum of rent, the tenant is under obligation to at least deposit the undisputed amount of rent within the stipulated period in order to avoid decree for eviction under Section 15 of the MRC Act. This Court has held in *Fehameeda Begum Vs. Abdul Hafiz*, reported in **2013 (2) Mh.L.J. 524** that only because rent is demanded at a rate which is higher than agreed rent, the notice does not become bad and that to avoid decree for eviction, the tenant must at least deposit the arrears of rent at the rate agreed by him.

7. With respect to the contention that the alleged dues of rent were calculated for a period of 14 years and the suit could not be entertained since the claim for payment of rent was barred by limitation, in the considered opinion of this

Court, the said contention is also liable to be rejected. It is now well settled that limitation with respect of recovery of rent applies only to a suit for recovery of arrears of rent and not to a suit filed for eviction on the ground of arrears of rent. In order to avoid decree for eviction under Section 15 of the MRC Act, the tenant is under obligation to clear the arrears of rent within the stipulated period, even if, the demand for rent is barred by limitation. Reliance in this regard can be placed on the judgment in the matter of *Prabhakar Venkobaji Manekar Vs. Surendra Dinanath Sharma*, reported in *2015 (4) Mh.L.J. 351*.

8. In view of the reasons recorded above, no case is made out for interference with well reasoned judgment passed by the learned first Appellate Court granting decree for eviction in favour of the respondents under Section 15 of the MRC Act. Writ Petition is, therefore, dismissed with no order as to costs.

(ROHIT W. JOSHI, J.)