



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

WRIT PETITION NO.6089 OF 2023

PETITIONER :- Mohan S/o Amarnath Khanuja
Aged 67 years, Occ. Business of Kirana
Shop, on Pachpaoli Road, Nagpur.
R/o. Teka Naka, Sangam Nagar, above
T.V.S. Showroom, Building, Nagpur.

..VERSUS..

RESPONDENTS :- 1) Surindarsingh S/o Bentsingh Hoda,
Aged about 60 years, Occ. Business,
2) Satnamsingh S/o Bentsingh Hoda,
Aged 55 years, Occ. Business,
Both R/o. Dr. Ambedkar Road, Panchpaoli,
Nagpur.

Mr. Anjan De, Advocate for Petitioner.
Mr. S.L. Kotwal, Advocate for the Respondents.

CORAM : ROHIT W. JOSHI, J.

DATE : 11/11/2025

ORAL JUDGMENT :

1. Heard.
2. The present petition arises out of a suit for eviction filed by the respondents on ground of bonafide need. The suit was decreed by the learned trial Court, accepting the case of bonafide need. The issue of comparative hardship was also answered in favour of the respondents. The petitioner/tenant preferred an appeal

challenging the decree for eviction. The appeal is also dismissed by the learned appellate Court. The said decree dismissing the appeal is subject matter of the present petition.

3. Perusal of the appellate Court's judgment will demonstrate that the learned appellate Court has failed to perform its duty as the final Court of facts. Perusal of the judgment will demonstrate that the legal principles with respect to eviction on ground of bonafide need as discussed in paragraph-9 thereof. In paragraph-10, the learned Court has referred to the findings recorded by the learned trial Court. It is held in paragraph-11 that the petitioner is occupation of the premises for a period of around 50 years and that the plaintiffs raised contention that they wanted to expand their business as the sons of the plaintiffs were growing up. Reference is made to the witnesses examined by the plaintiffs and defendant in paragraph-12. Perusal of the paragraph-13 will demonstrate that the learned First Appellate Court has referred to one shop which is allegedly vacant and has observed that a tenant cannot dictate terms to the landlord as to how he should satisfy his need.

4. Perusal of the judgment will demonstrate that the appellate Court has not considered the evidence on record at all.

5. The observations in paragraphs referred above are without considering any evidence. The learned Appellate Court has not appreciated the evidence on record at all. There is no reference to deposition of any of the witnesses examined by either side and particularly to the cross-examination of the said witnesses. Positive finding as regards *bona fide* need is also not recorded while dismissing the appeal. The judgment demonstrates failure on the part of the learned Appellate Court to deal with the rival contentions and answer the same.

6. The judgment with respect, is not a reasoned judgment warranting interference at the hands of this Court. In view of the above, I pass the following order:-

- i) Writ petition is **partly allowed**.
- ii) The judgment and decree dated 27.03.2023, passed by the learned Principal District Judge, Nagpur, in Regular Civil Appeal No.376 of 2011, is quashed and set aside.
- iii) The appeal is remitted to the learned Appellate Court for fresh adjudication.
- iv) Parties are directed to appear before the learned Appellate Court on **01.12.2025**. Parties to note that, separate notice for appearance will not be issued.

- v) Having regard to the fact that the suit for eviction was filed in the year 2005 and the appeal was filed in the year 2011, the learned Appellate Court is requested to decide the appeal as early as possible and in any case, on or before **31.03.2026**.
- vi) Parties to bear their own costs.

(ROHIT W. JOSHI, J.)

C.L. Dhakate