



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

WRIT PETITION NO.5762 OF 2023

PETITIONER :- Young Men's Christian Association,
Ori. Plaintiff
Maharajbagh Road, Sitabuldi, Nagpur,
A public trust, registered under the
Bombay Public Trust Act, Through its
Authorised Trustee-Niraj Singh s/o
Khrist Singh Aged about 48 years, Occ
Service, R/o Plot No.167/B, Christian
Colony, Mecosabagh, Nagpur.

..VERSUS..

RESPONDENT :- Shri. Atul David, Aged 78 yrs, Occ
Ori. Def.
Retired, R/o Roberston, YMCA, Civil
Lines, Nagpur.

Mr. Rohit M. Sharma, Advocate for petitioner.
Dr. Renuka S. Sirpurkar, Advocate for the Respondent.

CORAM : **ROHIT W. JOSHI, J.**

DATE : **05.12.2025**

ORAL JUDGMENT :

1) Heard finally with consent of learned Advocates for the respective parties.

2) The present petition is filed by the unsuccessful plaintiff, who had filed a suit for eviction against respondent/tenant under Section 15 and 16(1)(g) of the Maharashtra

Rent Control Act, 1999 (for short, “the MRC Act”).

3) It is the case of the plaintiff/landlord that the respondent/tenant was in arrears of rent from May, 1995 and onwards. It is stated that the plaintiff/landlord had issued a notice calling upon the respondent/tenant to clear the arrears of rent as contemplated under Section 15 of the MRC Act, despite which the tenant did not clear the arrears of rent within the stipulated period of 90 days, as a consequence of which suit for eviction came to be filed against him. It is also the case of the plaintiff that it is a public trust registered under the Maharashtra Public Trusts Act, 1950 and is in need of the suit premises for its *bona fide* need. The pleadings with respect to *bona fide* need are that the building in which suit premises are located, comprises of an old structure which is around 100 years old and therefore, it was necessary to demolish and reconstruct the structure.

4) The respondent/tenant opposed the suit by filing written statement. The contention regarding default in payment of rent is denied, likewise, the case of *bona fide* need is disputed in the written statement.

5) Based on rival pleadings, the learned Trial Court recorded evidence and dismissed the suit vide judgment and decree dated 06.12.2018. The learned Trial Court has held that the plaintiff had failed to prove its case of *bona fide* need. As regards Section 15 of the MRC Act, the learned Trial Court has recorded that the suit was filed on 11.10.2005 and the respondent/tenant deposited amount of Rs.31,802/- towards arrears of rent on 03.01.2006. It is also stated that although the rent was payable @ of Rs.270/- per month, the defendant had deposited amount @ of Rs.1,000/- per month. In view of this finding, the learned Trial Court found that the plaintiff had failed to prove that respondent/tenant has committed default with respect to payment of rent.

6) Aggrieved by the aforesaid judgment and decree dismissing the suit, the plaintiff/landlord preferred appeal, being Regular Civil Appeal No.77 of 2019, which was also dismissed vide judgment and decree dated 12.02.2021.

7) The learned First Appellate Court has concurred with the learned Trial Court in holding that the plaintiff/landlord failed to prove the case of *bona fide* need. However,

as regards arrears of rent, the learned First Appellate Court found that the respondent/tenant was in arrears of rent for the period from 01.04.2002 to 31.03.2005. However, the learned First Appellate Court has recorded that on the date on which the suit summons were served on the respondent/tenant, the entire amount of arrears of rent alongwith water charges and corporation taxes were deposited by the respondent/tenant in the Court, as a consequence of which decree for eviction under Section 15 could not be passed.

8) These concurrent decrees dismissing the suit for eviction are subject matter of challenge in the present petition.

9) The petition was initially allowed vide judgment dated 28.11.2024, however, application for review filed by respondent/tenant came to be allowed vide judgment dated 17.06.2025 and the petition was ordered to be heard afresh.

10) While allowing the application for review, this Court has observed in paragraph 3 that while the petition was earlier decided vide judgment dated 28.11.2024, the Court

was made to believe that the tenant had not paid the rent or deposited the rent in the Court while the civil suit was pending. It is observed in paragraph 4 of the judgment that although there were some delay in depositing the rent, the same was intermittently being deposited while the civil suit was pending. Apart from this, it was found that copy of the plaint which is filed on record in the petition indicates that paragraphs 4A to 4C are part of the plaint. This Court observed that although the application for amendment was allowed by the learned Trial Court, the petition filed by the defendant/tenant challenging the order allowing the amendment application was quashed and set aside by this Court and as such, paragraphs 4A to 4C did not constitute part of the plaint. This Court found that the said fact was also not brought to its notice while the petition was decided vide judgment dated 28.11.2024. The application for review was allowed in view of the above reasons. The petition was ordered to be restored to file for consideration afresh. Accordingly, the petition is taken up for hearing on merits.

11) As regards the case of *bona fide* need, this Court is in agreement with the findings recorded by both the learned Courts that the plaintiff/petitioner has failed to make out a case of *bona fide* need. The witness of the plaintiff categorically admitted during the course of his cross-examination that the copy of by-laws of the plaintiff/petitioner was not produced on record and that he had no knowledge about the aims and objects and by-laws of the Trust.

12) In view of such categorical admission in the cross-examination, in the considered opinion of this Court, the findings of fact recorded by the learned Courts with respect to *bona fide* need do not warrant any interference.

13) It must, however, be stated that apart from Section 16 (1)(g), the plaintiff also invoked to Section 15 for seeking decree for eviction. It is not in dispute that notice for demand is served on the respondent/tenant before filing of the civil suit and that the arrears of rent were not deposited by the respondent/tenant within the stipulated period of 90 days. It is also not in dispute that the suit is filed after period of 90

days, from the date on which notice for demand of arrears of rent were served on the respondent/tenant.

14) The learned First Appellate Court has dealt with the issue of arrears of rent in paragraph 19 of its judgment. It has recorded that the defendant did not dispute that the rent of the suit property was Rs.270/- per month and that it was exclusive of electricity charges, water charges and corporation taxes. It is further observed that the defendant came up with a case that the suit property was in a dilapidated condition and there was urgent need to carry out repairs and further that the plaintiff asked the defendant to carry out the necessary repairs and to adjust the cost thereof towards the rent. It further appears from reading of paragraph 19 that the defendant contended that expenditure to the tune of Rs.20,000/- was incurred towards repairs and that the plaintiff did not adjust the same towards the rent. The learned First Appellate Court has recorded that the defendant did not enter the witness box to prove his defence and, further, that the evidence of plaintiff's witness regarding arrears of rent from 01.04.2002 till 31.03.2005, along with

arrears of water charges to the tune of Rs.14,656/- and corporation taxes to the tune of Rs.4,186/- was not shaken.

15) This finding of fact recorded by the learned First Appellate Court is based on appreciation of evidence. The plaintiff has stated that the defendant had not paid the rent, water charges and corporation taxes for the said period. The defendant could not prove its defence of set-off the same against expenses incurred for repairs. In that view of the matter, the finding recorded by the learned First Appellate Court regarding the defendant/tenant being in arrears of rent is just and proper.

16) However, the learned First Appellate Court has refused to pass a decree for eviction under Section 15 on the ground that on 03.01.2006, the defendant had deposited sum of Rs.31,802/- with the learned Trial Court. The learned First Appellate Court has decided the issue as an issue with respect to recovery of rent. The learned First Appellate Court has not dealt with the right of plaintiff/landlord to seek eviction of tenant on the ground of arrears of rent in view of Section 15 of the Rent Act.

17) The defendant was in arrears of rent at least from 01.04.2002. It is not in dispute that notice was served on defendant and suit for eviction was filed after the stipulated period of 90 days from the date of service of said notice. The defendant/tenant did not clear the arrears of rent within a period of 90 days. After service of the suit summons, the defendant appeared in the suit and deposited amount of Rs.31,802/- with the learned Trial Court. This deposit includes payment of water charges and corporation taxes and an amount of Rs.12,960/- towards rent from 01.04.2002 till 31.03.2006 (Rs.270 X 48 Months). The defendant did not deposit arrears of rent with simple interest @ 15% per annum, as contemplated under Section 15(3) of the Act.

18) The record of the case also indicates that after filing of the suit, the defendant did not deposit the rent regularly with the learned Trial Court. It will be appropriate to refer to the statement of deposit of rent filed on record in the present petition by the respondent/defendant (record page 142). Perusal of the statement will demonstrate that rent for a

period of 4 years, along with water charges and corporation taxes were deposited on 03.01.2006. Thereafter, a further amount of Rs.20,000/- was deposited on 10.07.2015 (wrongly typed as 10.07.2025). The suit is decided on 06.12.2018 and the appeal is decided on 12.02.2021. These are the only amounts that were deposited with the Court while the suit and appeal were pending.

19) Thus, there is a clear default on the part of the defendant/tenant in clearing the arrears of rent within a period of 90 days from the date of service of demand notice, as provided under Section 15(2) of the MRC, Act as also default in depositing the arrears of rent with simple interest @ 15% per annum within a period of 90 days from the date of service of suit summons and a further default in making payment of rent regularly during the pendency of the civil suit.

20) In view of the aforesaid, the learned Courts ought to have granted a decree for eviction against the respondent/tenant under Section 15 of the MRC Act. The facts of the case will demonstrate that the respondent/tenant failed to make

payment of rent regularly, resulting in breach of the mandate of Section 15(1) of the MRC Act, followed by failure to clear arrears of rent within the notice period as contemplated under Section 15(2) and also did not deposit arrears of rent with interest @ 15% per annum within a period of 90 days from the date of service of suit summons and further failed to deposit the rent regularly with the learned Trial Court. For all these reasons, decree for eviction under Section 15 of the MRC Act needs to be passed in favour of the plaintiff/landlord.

21) It will be pertinent to mention that although the copy of plaint that is annexed to the petition is not a correct copy, it needs to be mentioned that paragraphs which were wrongly shown as part of the plaint are pertaining to *bona fide* need. This Court has concurred with the opinion of the learned Courts that the plaintiff-landlord has failed to make out a case for eviction on the ground of *bona fide* need. As regards non-disclosure of fact that rent was deposited with the learned Trial Court, the admitted facts disclose that rent was deposited only on two occasions. The undisputed facts of

the case with respect to deposit of arrears of rent will also demonstrate that decree for eviction under Section 15 is unavoidable. The decree for eviction needs to be passed under Section 15 of the MRC Act, even after taking into consideration the deposit of rent.

22) In view of the aforesaid, the petition deserves to be allowed and is **allowed** in the following terms:-

(i) The Judgment and decree dated 12.02.2021 passed in Reg. Civil Appeal No.77 of 2019 by learned Ad-hoc District Judge-4, Nagpur and judgment and decree dated 06.12.2018 passed in Regular Civil Suit No.570 of 2005 by learned Judge, Small Causes Court, Nagpur are hereby quashed and set aside.

(ii) Regular Civil Suit No.570 of 2005 decided by the learned Judge Small Causes Court, Nagpur, dated 06.12.2018 is partly allowed by granting decree for eviction in favour of the petitioner/plaintiff under Section 15 of the MRC Act and further directing an enquiry into mesne profits from the date of institution of the suit till delivery of possession.

23) At this stage, the learned Advocate for the respondent/tenant states that the respondent/tenant intends to assail the judgment before the Hon'ble Supreme Court and seeks that execution of the present decree may be stayed for a reasonable period so as to enable the respondent/tenant to approach the Hon'ble Supreme Court.

24) The learned Trial Court and the First Appellate Court have dismissed the suit filed by the plaintiff/petitioner. The case of *bona fide* need is also discarded by this Court.

25) In view of the aforesaid, it will be appropriate that the effect and operation of the present judgment and order is stayed till **05.04.2026**.

(ROHIT W. JOSHI, J.)

Tanmay..