



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO.4046 OF 2025**

Jayant Baburao Wani,  
Age: 58 years, Occ. Grocery Shop,  
R/o. Bochare Galli, Raver Tq. Raver,  
Dist. Jalgaon ..Petitioner

Versus

1. Satish Ramchandra Wani,  
Age: 75 years, Occ. Retired,  
R/o. 83, Yashodhan, Ganesh Colony,  
Jalgaon, Dist. Jalgaon.
2. Pramod Baburao Wani,  
Age: 65 years, Occ. Retired,  
R/o. Bochare Galli, Raver Tq. Raver  
Dist. Jalgaon.
3. Managala Ashok Gade,  
Age: 73 years, Occ. Household,  
R/o. Main Road, Yaval, Tq. Yaval,  
Dist. Jalgaon. ..Respondents

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Mr. V. B. Patil, Advocate for Petitioner.  
Mr. G. V. Wani, Advocate for Respondent No.1.

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**CORAM : S. G. CHAPALGAONKAR, J.**

**RESERVED ON : 06<sup>th</sup> JANUARY, 2026.**  
**PRONOUNCED ON : 16<sup>th</sup> MARCH, 2026.**

**JUDGMENT:-**

1. Rule. Rule made returnable forthwith. By consent of parties, matter is taken up for final hearing at the admission stage.
2. The petitioner impugns order dated 30.12.2024 passed by Additional Divisional Commissioner, Nashik Division, Nashik in

Rent Control/Revision/406/2024, thereby upholding order dated 27.06.2024 passed by Competent Authority, Rent Control Act Court, Nashik Division, Nashik (for short 'Competent Authority') in Application No.12/2008, whereby decree of eviction has been passed against petitioner/tenant under Section 23 of Maharashtra Rent Control Act, 1999 (for short 'Act of 1999').

3. The respondent no.1 instituted proceeding under Section 23 of Act of 1999 against petitioner for recovery of possession of suit property i.e. shop admeasuring 640 sq. ft. situated on ground floor of premises constructed on CTS No.524 admeasuring 70.2 sq. mtrs. at Raver, District Jalgaon. It was contention of respondent no.1 that he was serving with MSEB. He retired from service on 31.10.2007 on attaining age of superannuation. His native place is Raver, District Jalgaon. The suit property was given on rent by his father to petitioner's father at monthly rent of Rs.15/-. After death of respondents' father, petitioner's father paid rent upto 31.01.1993 to respondent no.1. Thus, there was relation of landlord and tenant between them. After death of petitioner's father, petitioner took over business of grocery shop run by his father in suit premises and continued to occupy premises as tenant. The petitioner failed to pay rent from 01.02.1993 till 31.08.2008. On retirement of respondent no.1, he served legal notice upon petitioner to hand over disputed premises, as he wanted to shift to

his native place Raver. The petitioner failed to reply said notice, which laid to filing of present proceeding. The petitioner filed written statement. Although he accepted landlord-tenant relationship, took objection as to maintainability of proceeding under Section 23 of Act of 1999 on ground that petitioner's employer i.e. MSEB cannot be treated as Government undertaking. Secondly, he denied claim of bonafide requirement of respondent no.1, as he owns many other properties apart from house at Jalgaon.

4. In light of rival contentions, Competent Authority framed issues. The preliminary objection was raised as to jurisdiction of Competent Authority to entertain application filed by respondent no.1 for possession of property on ground that respondent no.1 was employee of MSEB, which is not public sector undertaking. The Competent Authority held that it has jurisdiction to entertain application. The petitioner had challenged said order before Additional Divisional Commissioner, who also uphold jurisdiction of Competent Authority. Lastly, Writ Petition No.4804/2018 was filed assailing order of Competent Authority as confirmed by Additional Divisional Commissioner on point of jurisdiction. This Court disposed of Writ Petition vide order dated 10.11.2023, as petitioner accepted position that respondent no.1 was employee of MSEB, which is Government sector undertaking. Accordingly, this

Court directed Competent Authority to decide matter within period of six months from date of disposal of Writ Petition and concluded that preliminary objection does not survive.

5. After disposal of Writ Petition, Competent Authority decided proceeding in Application No.12/2008 vide judgment and order dated 27.06.2024 and directed petitioner to deliver possession of disputed premises to respondent no.1 within period of 30 days and pay rent of Rs.15/- from 01.02.1993 till handing over possession. Aggrieved petitioner filed Revision Application No.406/2024 under Section 44 of Act of 1999 before Additional Divisional Commissioner at Nashik, which came to be rejected on 30.12.2024 upholding order of Competent Authority. Hence, this Writ Petition.

6. Mr. Patil, learned Advocate appearing for petitioner submits that impugned orders are contrary to facts and law. The respondent no.1 has alternate premises in vicinity of disputed premises within limits of Raver Municipal Council. The decree of eviction cannot be passed under Section 23 of Act of 1999 in absence of bonafide requirement of landlord. The petitioner is in possession of suit premises for last more than 40 years and running business. He has no alternate suitable premises to run his grocery shop. He would further submit that suit premises was given on rent to petitioner's father by father of respondent no.1. There is no

evidence of partition and allotment of suit shop to respondent no.1. Mr. Patil would further submit that tenancy was not created during service period of respondent no.1 with MSEB/Public Sector Undertaking. Therefore, respondent no.1 could not have invoked Section 23 of the Act of 1999, which is a special provision applicable to a specified class of persons, who require premises for use as their office. In support of his contention, Mr. Patil relies upon observations of this Court in cases of ***Commander A. R. Ravindra etc. Vs. Jangannath B. Jagtap etc.***<sup>1</sup> and ***Satish Kumar Banwarilal Sharma Vs. Major Virendra D. Ganju***<sup>2</sup> to contend that Section 13(A)(1) of Bombay Rents, Hotel and Lodging Houses Rates Control Act, 1947 (for short 'Act of 1947') has application when landlord who had been in service of Public Sector Undertaking and acquires property and title of landlordship during his tenure of service.

7. Per contra, Mr. Wani, learned Advocate appearing for respondent no.1 supports impugned order. He would submit that both Authorities have recorded concurrent findings regarding bonafide requirement of respondent no.1-landlord. The tenant cannot dictate to the landlord on suitability and choice of landlord as to the occupation of premises. The petitioner cannot seek High Court to exercise Writ jurisdiction even for correction of error of

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<sup>1</sup> 2006 (5) Mh.L.J. 546.

<sup>2</sup> 1998 (3) Mh.L.J. 211.

facts. Unless jurisdictional error is brought to notice of High Court, Writ Petition need not be entertained.

8. Having considered submissions advanced and after going through pleadings and notes of evidence tendered into service by learned Advocates appearing for respective parties, it can be observed that in year 1963, petitioner's father was put into possession of suit premises by father of respondent no.1 on monthly rent of Rs.15/-. In year 1988, respondent no.1's father expired. However, petitioner's father continued to pay rent to respondent no.1. The respondent no.1 received rent till 1993 and after death of petitioner's father, petitioner occupied suit premises and continued business of grocery shop. In August 2008, respondent no.1 served legal notice for vacating premises and arrears of rent. The petitioner sent money order towards rent amount, but respondent no.1 refused to accept same. The respondent no.1 filed proceeding for eviction under Section 23 of Act of 1999 contending that he retired from MSEB on 31.10.2007 and does not have alternate accommodation within vicinity of suit premises. Hence, he bonafide needs suit premises for his own occupation. The petitioner filed written statement and in paragraph no.17 he has specifically admitted that respondent no.1 is owner of suit premises and same has been received by him by inheritance. The aforesaid admission in written statement and fact that petitioner paid/offer

rent to respondent no.1 is sufficient to hold that respondent no.1 is landlord. In that view of matter, contentions raised on behalf of petitioner that there is no evidence as to partition in family of respondent no.1 do not assume significance.

9. The second contention of petitioner is that respondent no.1 could not have invoked Section 23 of Act of 1999, which is special provision for specified classes of employees retired from service of Public Sector Undertaking of Central or State Government. It can be observed that aforesaid issue was raised as preliminary objection on behalf of petitioner and decided against him by Competent Authority as well as Revisional Authority and finally in Writ Petition No.4804/2018. Such objection has been practically waived by petitioner. Accordingly, this Court disposed of Writ Petition observing that petitioner accepts that respondent no.1 is employee of MSEB, which is Public Sector Undertaking. In this backdrop, petitioner has no voice for raising similar objection in present petition.

10. The petitioner further contends that respondent no.1 could not prove his bonafide requirement. The respondent no.1 has alternate premises, as has been admitted by him during cross-examination. The Competent Authority has elaborately dealt with aforesaid objections in impugned order. It has been observed that although properties disclosed at Exhibits 74, 75, and 76 stand in

name of joint family of respondent no.1, except for disputed property, he does not have any other property independently in his name. The respondent no.1 has residential house in Jalgaon. However, except disputed property he do not have any other property at Raver, which is his native place. Apparently, petitioner is also having his own property located near suit property for his occupation. Therefore, respondent no.1 has established his right to recovery possession under Section 23 of Act of 1999.

11. So far as reliance of petitioner on observations made by this Court in case of **Commander A. R. Ravindra etc.** (supra), this Court observed that claim raised under Section 23 of Act of 1999 (13(A)(1) of Act of 1947) is malafide, as landlord therein had purchased property of his brother-in-law and then filed proceeding for eviction taking benefit that he was ex-serviceman. In second judgment in case of **Satish Kumar Banwarilal Sharma** (supra) relied upon by petitioner, claim was raised by ex-serviceman for recovery of premises under Section 13(A)(1) of Act of 1947 on ground that he bonafide requires possession of property for his occupation. This Court observed that petitioner therein acquired property and title of landlordship after his retirement from Armed Forces. Therefore, he would not be entitled to recover possession of leased premises by virtue of provisions contained in Section 13(A)(1) of Act of 1947.

12. In that factual matrix, taking cognizance of law laid down by Apex Court in case of *Winifred Ross and Another Vs. Ivy Fonseca and Others*<sup>3</sup>, this Court observed that proceeding under Section 13(A)(1) of Act of 1947 would not be maintainable.

13. In present case, facts are distinguishable from facts of cases in judgments referred above. The respondent no.1 is undisputedly landlord/owner of premises. From 1988 onwards, petitioner and his father has accepted him to be landlord and offered/paid rent. The present proceeding is filed by respondent no.1 on his retirement on superannuation in year 2007 from MSEB, which is Public Undertaking of Government of Maharashtra.

14. In light of aforesaid admitted facts, exposition of law in judgment referred above would not apply to present case. Hence, this Court finds no jurisdictional error in orders impugned.

15. In result, Writ Petition sans merit. Hence, dismissed.

16. Rule stands discharged.

**(S. G. CHAPALGAONKAR)**  
**JUDGE**

Devendra/March-2026