

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1603 OF 2026

Suresh Ratanchand Lodha

....Petitioner

V/S

Nirmala Vasudeo Ambavale & Ors.

....Respondents

Mr. Vilas B. Tapkir *for the Petitioner.*

Ms. Sonali Kunekar *for Respondents.*

CORAM : SANDEEP V. MARNE, J.

DATE : 1 APRIL 2026.

ORDER :

1. By this Petition filed under Article 227 of the Constitution of India, Petitioner assails the judgment and order dated 20 September 2025 passed by District Court, Pune dismissing Regular Civil Appeal No.553 of 2019 and confirming the eviction decree dated 7 August 2019 passed by the Small Causes Court in Civil Suit No.252 of 2016. Plaintiffs' Suit has been decreed and the Petitioner/Defendant is directed to handover possession of the suit premises to the Plaintiffs on the solitary ground of *bonafide* requirement under Section 16(1)(g) of the Maharashtra Rent Control Act, 1999 (**MRC Act**).

2. Shop No.1, admeasuring 152 square feet together with open space in front of it, located on the ground floor of a three story building bearing House No.1326 (old) and No.23 (new) at Raviwar Peth, Pune, are the '**suit premises**'. The structure in which suit premises are located are

owned by Plaintiffs (Respondents). Petitioner/Defendant was inducted as a monthly tenant in respect of the suit premises in the year 1987 on payment of rent of Rs.300/- per month. Plaintiffs alleged that Defendant had failed to pay arrears of rent for three months from March 2016 to May 2016. Plaintiffs also alleged that the Defendant earned a fortune through business conducted in the suit premises and has purchased several properties in various parts of Pune city. Plaintiffs pleaded details of properties owned by Defendant and his children. Additionally, Plaintiffs alleged that Defendant had taken on lease commercial gala at CTS No.37 Ganesh Peth, Maharana Pratap Road, Pune since 32-35 years. That another commercial gala was taken on lease by the Defendant at Meera Datar Darga Road. That Defendant was not in need of the suit premises. Plaintiffs further pleaded that son of Plaintiff No.1 viz. Plaintiff No.4 had secured BHMS Degree and his wife also holds BHMS Degree. It was pleaded that Plaintiff No.4 and his wife were in job and were not satisfied in their respective jobs and wanted to open a dispensary in the suit premises. This ground of *bonafide* need was pleaded in the plaint. After service of notice dated 16 May 2016 and receipt of Reply thereto, Plaintiffs instituted Regular Civil Suit No.252 of 2016 in the Court of Small Causes, Pune, for recovery of arrears of rent and for recovery of possession of the suit premises.

3. Defendant filed Written Statement resisting the Suit and contesting the grounds of default in payment of rent and Plaintiffs' *bonafide* requirement. Based on pleadings, Trial Court framed issues. Plaintiff No.1 examined herself. Plaintiff No.4-Kailsah Vasudeo

Ambavale also examined himself. Defendant examined himself before the Trial Court. After considering the pleadings, documentary and oral evidence, the Trial Court proceeded to decree the suit on solitary ground of *bonafide* requirement. The Trial Court however rejected the ground of default in payment of rent. It was held that Plaintiffs needed the suit premises reasonably and *bonafidely* for their own occupation of running of dispensary by Plaintiff No.4 and his wife. The Trial Court further held that Plaintiffs would suffer greater hardship by refusing to pass the decree than the one caused to the Defendant by decreeing the suit. The Trial Court accordingly directed Defendant to vacate and handover the possession of the suit premises to the Plaintiffs within two months.

4. Defendant filed Civil Appeal No.553 of 2019 before the District Court, Pune, challenging Trial Court's decree dated 7 August 2019. Defendant also filed Application under Order 41, Rule 27 of the Code of Civil Procedure, 1908 (**the Code**) for leading additional evidence. By judgment and order dated 20 September 2025, the Appellate Court has dismissed the Appeal preferred by the Petitioner/Defendant and has confirmed the decree of the Trial Court. Aggrieved by the judgment and decree passed by the Appellate Court, Petitioner has filed the present Petition.

5. Mr. Tapkir, the learned counsel appearing for Petitioner submits that the Trial and the Appellate Courts have grossly erred in accepting the ground of *bonafide* requirement. He submits that Plaintiff No.4 and his wife are admittedly serving and are well settled in their respective

jobs. That fanciful desire of opening clinic in the suit premises cannot amount to *bonafide* requirement. That Plaintiff No.1 expressly admitted in her cross-examination that Plaintiff No.4 is happy in his job. He further submits that Plaintiff No.4 expressly admitted in his evidence that he has never undertaken private practice. That Plaintiff No.4 and his wife have been performing job of insurance and data research and medical summarizer. That both have absolutely no exposure of treating the patients. Mr. Tapkir further submits that Plaintiffs possess a whole three story building, except the tiny suit premises admeasuring only 152 square feet which are possessed by Defendant. That another premises admeasuring 700 square feet on ground floor are in possession of Plaintiffs from which Plaintiff No.4 and his wife can easily operate their dispensary. He submits that Defendant would face greater hardship as he cannot be made to scout for alternate premises at his advanced age. That Defendant has no other premises to operate his business. That premises owned by his sons are irrelevant. He accordingly prays for setting aside the impugned decree.

6. The Petition is opposed by Ms. Kuneekar, the learned counsel appearing for Respondents/Plaintiffs. She submits that both the Courts have concurrently upheld the ground of *bonafide* requirement. That findings recorded by both the Courts are well supported by evidence on record and do not suffer from the vice of perversity. That Plaintiffs are the best judge of their *bonafide* requirement. That sufficient evidence is led to prove *bonafide* requirement of Plaintiff No.4 and his wife, both of whom are doctors. That Defendant on the other hand, alongwith his

sons, own several properties in Pune. She submits that the suit has rightly been decreed and prays for dismissal of the Petition.

7. Rival contentions urged on behalf of the parties now fall for my consideration.

8. Though the suit was initially filed on twin grounds of default in payment of rent and *bonafide* need, the suit is decreed only on the ground of *bonafide* need and the ground of default of payment of rent has been rejected. Plaintiffs' pleaded case in the plaint was in respect of *bonafide* need of Plaintiff No.4 and his wife for operating their clinic in the suit premises. Both Plaintiff No.4 and his wife are Homeopaths. They are currently serving in private jobs and it is pleaded that they are not happy in their jobs and wish to start their private practice in the suit premises. The case of the Plaintiffs is concurrently accepted by the Trial and the Appellate Courts.

9. It is well settled position that Plaintiffs are the best judge of their *bonafide* need. The Defendant cannot dictate terms to the Plaintiffs by questioning genuineness of *bonafide* need. At the same time, *bonafide* need of the landlord cannot be a mere whimsical or fanciful desire. The *bonafide* need must be manifested in the actual need as contra-distinct from a mere fanciful or whimsical desire. In the present case, since Plaintiff No.4 and his wife are graduates in Homeopathy and are qualified to practice Homeopathy, it cannot be contended that the need expressed by them to operate their clinic is a fanciful or whimsical desire. It is a need in reality. Furthermore, mere factum of Plaintiff No.4

and his wife serving in private jobs does not mean that they must continue to do so for the purpose of ensuring that Defendant enjoys possession of tenanted premises. Furthermore, absence of experience cannot be a ground for doubting *bonafide* requirement of Plaintiff No.4 and his wife. It is a call taken by them to leave their jobs and operate a private clinic from the suit premises based on qualifications held by them. Law permits them to practice Homeopathy. Whether they would succeed in practice or not is something beyond the scope of inquiry and Defendant cannot question ability of Plaintiff No.4 or his wife to succeed in their private practice.

10. So far as availability of premises on ground floor as well as other premises on first, second and third floors are concerned, it is obvious that ground floor premises are more suitable for operation of clinic than operating the same on upper floors of the building. The allegation of Plaintiffs being in possession of 700 square feet premises on the ground floor is misplaced as Plaintiff No.2 is found to be possession of the same for the purpose of operation of his transport business. Defendant cannot dictate terms and contend that Plaintiff No.4 must adjust himself in those premises in occupation of Plaintiff No.2. When landlord is the owner of the suit premises situated on ground floor and if premises are needed by the landlord for *bonafide* need, Defendant cannot contend that the landlord must adjust himself in some other premises to ensure that Defendant continues to enjoy the suit premises forever.

11. In my view therefore, *bonafide* need of the Plaintiffs is sufficiently established in the facts and circumstances of the present case. By no

stretch of imagination, it can be contended that findings recorded by the Trial and the Appellate Courts are perverse in any manner. The findings are well supported by the evidence on record.

12. So far as the comparative hardship is concerned, it has come in evidence that Defendant is in possession of two other tenanted premises being two galas in the vicinity of suit shop. Defendant is found to be financially strong person, who has purchased the row house and a flat as pleaded in the plaint. Thus, on the other hand, Plaintiffs do not possess any other premises on the ground-floor for operation of clinic of Plaintiff No.4 and his wife. Thus, the issue of comparative hardship has rightly been answered in favour of the Plaintiffs and against the Defendant.

13. Considering the overall conspectus of the case, I am of the view that no case is made out for interfering in the concurrent findings recorded by the Trial and the Appellate Courts on issues of *bonafide* need and comparative hardship.

14. Writ Petition is devoid of merits. It is accordingly **dismissed** without any order as to costs.

(SANDEEP V. MARNE, J.)