



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

WRIT PETITION NO.4561 OF 2025

PETITIONER
Ori. Defendant

: Jitendra s/o Pramod Masram, Aged about 45 years, Occu. Service, R/o House No.99/3, Ward No.67, Near Kasturba Library, Sadar, Nagpur-440001.

...VERSUS...

RESPONDENT
Ori. Plaintiff

: Sanjay s/o Premnarayan Mishra, Aged about 66 years, Occupation- Business, R/o 'Shriti', 103, Mount Road, Behind Upavan Lawn, Sadar, Nagpur-440001.

Mr. A.S. Dhore, Advocate for Petitioner.
Mr. N.H. Shams, Advocate for Respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.
RESERVED ON : 21/01/2026
PRONOUNCED ON : 09/03/2026

JUDGMENT :

1. This writ petition was extensively heard at the stage of admission and having considered the contentions canvassed on behalf of the petitioner as well as the respondent, the matter is admitted and taken up for final disposal.

2. By this petition, the petitioner/original defendant has assailed the judgment and order dated 27.02.2023 passed by the Small

Causes Court, Nagpur in Regular Civil Suit No.306/2016, which was upheld by the Appellate Court by its judgment and order dated 04.03.2025 in Regular Civil Appeal No.85/2023.

3. The controversy involved in the instant petition arises out of a civil suit filed by the respondent for eviction and recovery of arrears of rent. The petitioner's father was a tenant of the suit premises consisting of two rooms situated at Plot No.11, bearing Municipal Corporation House No.92 in Ward No.67, Near Kasturba Library, Mount Road, Sadar, Nagpur. The petitioner's father was a tenant of the Siria Family and was paying rent at the rate of Rs.800/- per month for the suit property. The respondent/original plaintiff purchased the suit from the Siria Family by registered Sale Deed dated 05.05.2005 and thereafter, the petitioner's father as a tenant started paying rent to the respondent.

4. In the year 2016, the respondent filed a suit for eviction and recovery of possession under Sections 15 and 16(1)(k) of the Maharashtra Rent Control Act, 1999 (for short "the Act") and also claimed for recovery of arrears of rent and permitted increases with interest from the tenant. The suit was contested on merits by both the parties. After considering the evidence led on behalf of both the parties,

the trial Court by its judgment and order dated 27.02.2023, decreed the suit and the defendant was directed to handover the peaceful and vacant possession of the suit property within 30 days from the date of the decree. The defendant was also directed to pay an amount of Rs.7,383/- towards arrears of rent and permitted increases to the plaintiff along with simple interest at the rate of 15% per annum from the date of institution of the suit till realization of the entire amount. Apart from this, the trial Court has also directed an enquiry under Order XX Rule 12 of the Code of Civil Procedure, 1908 for determining the mesne profits.

Feeling aggrieved by the said judgment and decree, the tenant (petitioner herein) preferred an appeal under Section 34 of the Act, which was contested on merits by the landlord. By judgment and decree dated 04.03.2025, the appeal came to be dismissed and the judgment and decree passed by the Trial Court came to be confirmed. Aggrieved by the same, the petitioner has challenged both these judgments and decrees by way of the instant petition.

5. Advocate Mr. A.S. Dhore, learned counsel for the petitioner vehemently submitted that the impugned decree in the suit for eviction is unsustainable, being passed, despite non-joinder of other legal heirs

of the original tenant to the suit. He submitted that the landlord failed to demonstrate that the suit premises were in dilapidated condition and further that the landlord was entitled to claim any arrears of rent or permissible increases within the ambit of Section 15 of the Act. He also submitted that the landlord is having two other properties which could be made available and in view of the comparative hardship suffered by the tenant, the suit deserved to be dismissed.

6. Per contra Mr. Shams, learned counsel for the respondent opposed the petition and vehemently submitted that the trial Court as well as the Appellate Court had recorded concurrent findings based on the evidence available before them, which do not require interference on any count. He submitted that the primary contention canvassed on behalf of the petitioner that the suit was liable to be dismissed for non-joinder of necessary parties, cannot be entertained in absence of any pleadings in the written statement. He submitted that the other ground about the suit premises being not in dilapidated condition, are also unsustainable in view of the specific findings recorded by both the Courts below. He submitted that this ground was also not even raised before the First Appellate Court and as such, the same is devoid of merit and substance.

7. In support of his submissions, he placed reliance on several judgments including the judgment in the matter of *Chandiram S/o. Dariyanumal Ahuja Vs. Akola Zilla Shram Wahatuk Sahakari Sanstha* in *Writ Petition No.1101/2007* decided on *25.06.2012* and judgment in the matter of *Babulal S/o. Fakirchand Agrawal Vs. Suresh S/o. Kedarnath Malpani and Others* in *Civil Revision Application No.76/2010* decided on *12.06.2017*. By highlighting the legal position elucidated in these judgments, he submitted that the landlord is entitled for decree and eviction under Section 15 and 16(1)(k) of the Act, in view of the evidence which has come on record in the instant case.

8. The rival contentions thus fall for my consideration. While considering the controversy involved in the instant petition, it has to be noted that the petitioner is a tenant who is occupying the shop premises since several years and was a tenant of the Siria Family. The respondent herein has purchased the property from Siria Family in the year 2005 and thereafter, the petitioner became tenant of the respondent. The suit premises being two shops situated at Mount Road, Sadar, Nagpur, are situated at a prime commercial location having lot of commercial potential.

9. The landlord has filed the suit under Section 15 of the Act and on the basis of the evidence on record has proved that the tenant has committed defaults in payment of regular rent and in clearing the arrears of rent and thus, he failed to attract the protection under Section 15(3) of the Act. On the basis of the evidence available before the Courts below, it has been held that the defendant has committed default in payment of rent and permitted increases within the ambit of Section 15 and therefore, the landlord became entitled for decree of eviction. Further, the landlord has claimed eviction under Section 16(1)(k) of the Act, however, in absence of any cogent evidence, the eviction on account of property being in dilapidated condition was not granted.

10. The findings recorded by the Trial Court regarding the tenant's default in payment of rent and permitted increases are upheld by the Appellate Court. The petitioner has failed to demonstrate any perversity with these concurrent findings. Although, the arguments are advanced on behalf of the petitioner that the suit deserves to be dismissed for non-joinder of necessary parties since the other legal heirs of the tenant were not joined as parties, it has to be noted that there are no pleadings in the written statement in this regard, neither any contentions were raised before the Appellate Court and as such, these

contentions raised for the first time in this petition need not to be entertained and are not entertained.

11. The position of law laid down in the judgments relied upon by the counsel for the respondent is not disputed and the same is not even controverted by the learned counsel for the petitioner. The legal position with respect to the purport of the provisions of Section 15 of the Act, is duly considered by both the Courts below and as such, the reliance placed by the counsel for the respondent on the judgment is appropriate.

12. It is trite law that the landlord is the best judge of his requirements and is entitled for the recovery of possession of the tenanted premises once he establishes the available grounds for eviction. In the instant case, the landlord has established the grounds of eviction based on the evidence led before the Court. It is pertinent to note that there are concurrent findings recorded by both the Courts below on the issue of tenant's default in payment of rent and permitted increases within the ambit of Section 15 of the Act. Further it is to be noted that the tenant is occupying the premises since decades and in view of the concurrent findings recorded by both the Courts below, the landlord is now entitled for a decree of eviction.

13. I have given anxious consideration to all the relevant factual and legal aspects. On careful reading of the judgment passed by the Trial Court as well as the Appellate Court, it become clear that the evidence on record is properly appreciated and the findings are recorded on the basis of the available evidence on record. The reasons recorded by the trial Court are sound and plausible and no perversity is seen while entertaining the appeal under Section 34 of the Act. The Appellate Court has given due consideration to all the relevant factual and legal aspects and by a well reasoned judgment, dismissed the appeal thereby, confirming the judgment of the Trial Court. I do not find any perversity with any of these judgments, warranting interference in writ jurisdiction.

14. Having regard to the above mentioned factual and legal aspects and on giving anxious consideration to all the relevant evidence on record, no indulgence is warranted with the impugned judgments under Article 227 of the Constitution of India.

15. In view of above, the writ petition is **dismissed** with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

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