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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIRCUIT BENCH AT KOLHAPUR  
CIVIL APPELLATE JURISDICTION  
CIVIL REVISION APPLICATION NO. 4 OF 2025

1. Ajitnath Tatyasaheb Shetti ]  
Age-76 Years, Occu. Pensioner ]  
At present residing at ]  
C/o. Suresh Bapusaheb Gare ]  
Ganpati Peth, Sangli ]
2. Shantinath Tatyasaheb Shetti ]  
(Since deceased and ]  
left no Lrs. Hence deleted) ]
- ...Applicants  
(Orig. Plaintiffs)

Versus

- M/s. Govindram Shobharam ]  
and Company Registered ]  
Partnership Firm C.S. No.671, ]  
672, 669 ]  
At Ganpati Peth, Sangli, ]  
Tal. Miraj, Dist. Sangli ]  
Through Partner ]  
Shri. Rajesh Kirit Shah ]  
Age- Major, Occu. Business ]  
Add. As Above ]
- ...Respondent  
(Orig. Defendant)

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Mr. Abhishek T. Ingale (through V.C.) a/w. Mr. T. S. Ingale for the Applicants.

Mr. Ashutosh M. Kulkarni i/b. Mr. Sarthak Diwan for the Respondent.

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**CORAM : M.M. SATHAYE, J.**

**DATE : 20<sup>th</sup> FEBRUARY, 2026**

**JUDGMENT :**

1. This Civil Revision Application under section 115 of Civil

Procedure Code 1908 ('CPC' for short) is filed by Plaintiff-landlord challenging the impugned Judgment and Decree dated 12/09/2024 passed by District Judge-2, Sangli in Regular Civil Appeal No. 219 of 2018. By the said impugned Judgment and Decree, the said appeal filed by Respondent-Tenant was allowed, thereby setting aside the Judgment and Decree dated 03/07/2018 passed by 3<sup>rd</sup> Joint Civil Judge Junior Division, Sangli in Regular Civil Suit No. 267 of 2010, thereby dismissing the said suit.

2. The Revision Applicant is landlord and Respondent is tenant. The said suit was filed by the Revision Applicant for eviction of the Respondent, which was decreed granting eviction. However, it is set aside by the Appellate Court.

3. Few facts shorn of unnecessary details are as under.

3.1. The Revision Applicant filed said suit contending *inter alia* that premises on the ground floor of structure at City Survey No. 670 admeasuring 73 ft. 6 inch x 16 ft. 9 inch is the suit premises which is in possession of the Respondent as monthly tenant since the time of father of the Plaintiff. That monthly rent is Rs.104.25 excluding municipal tax and light charges.

3.2. It is further contended that the suit premises is given to Respondent for use as godown; however, the same is kept closed and locked by Respondent. That the electricity connection in the name of Plaintiff's father has been misused. That the suit premises are not used for the reason for which it is let for more than six months without reasonable cause. That the suit structure is an old structure

constructed in stone and mud long ago (about 85 years ago). That the Respondent has taken advantage of the Revision Applicant staying out of station and has removed the roof illegally. That the suit premises has been damaged and wasted.

3.3. It is further contended that the Revision Applicant - Mr. Ajitnath was in service, who has retired in 2009 and he wants to start a business of either hardware store or hotel, for which the suit premises is most appropriate and convenient place being situated in the peth area of city. That therefore he requires the suit premises reasonably and *bona fide* for personal use and occupation and the landlord is willing to carry out necessary repairs and use it.

3.4. It is further contended that the Revision Applicant issued suit notice dated 29/01/2008 and the tenancy is terminated by end of April 2008. Therefore suit is filed under provisions of section 16(1) (g) and 16(1)(n) of the Maharashtra Rent Control Act, 1999 ('MRC Act' for short). It is contended that partners of the Respondent firm (Tenant) are in sound financial position and therefore they have capacity to purchase property elsewhere. Despite various requests by the Revision Applicant informing the Respondent about plaintiff's *bona fide* requirement, the suit premises are not vacated.

3.5. It is further contended that since the suit structure is old, the Revision Applicant has received notice dated 30/03/2010 from the local municipal corporation. That the Revision Applicant is ready to demolish the structure; however, since it is in the possession of the Tenant, the Landlord is not in a position to comply with the notice of

municipal corporation.

3.6. The Respondent filed written statement contesting the suit, denying the *bona fide* requirement. It is contended that if the nature of suit premises is considered then it is not useful and convenient for the use by the landlord. It is contended that the Respondent requires the suit premises and it is being used as godown. Non-user is denied. Other averments in the plaint are also denied.

3.7. The Revision Applicant examined Applicant No. 1 - Mr. Ajitnath as P.W.-1, a photographer as P.W.-2, a legal Officer and Managing Director of Warna Sahakari Bank (licensee of the Respondent) as P.W.-3 and P.W.-4, and a nearby shop holder as P.W.-5. The Respondent examined a partner of Respondent firm as D.W.1.

3.8. Learned Trial Judge framed the Issues regarding reasonable and *bona fide* requirement, non-user without reasonable cause, arrears of rent, greater hardship. On appreciation of evidence, the learned Trial Judge decreed the suit directing Respondent to deliver vacant possession of the suit premises.

3.9. The Respondent filed the said appeal challenging the decree of eviction. The Revision Applicant also filed cross-objection challenging the adverse findings regarding arrears and recovery of rent.

3.10. The Appellate Court on re-appreciation of evidence has allowed the appeal and dismissed the cross-objection, thereby setting aside the decree of eviction and dismissing the suit.

3.11. In these circumstances, the landlord is before this Court challenging dismissal of eviction suit.

### SUBMISSIONS

4. Learned counsel for the Revision Applicant-Landlord, Mr. Ingale, submitted as under.

4.1. That the Landlord has entered witness box and has asserted the *bona fide* requirement and there is no reason to disbelieve the same. That the Landlord is the best judge of his own requirement and the tenant cannot dictate terms to the landlord about use of his own premises.

4.2. That the Plaintiff's witness has proved that the Respondent has a premises admeasuring 865 sq. ft. which was given on license to a bank for five years from 2012 to 2017 showing that the tenant has his own premises but has given it on license, indicating that they the aspect of hardship is clearly against tenant.

4.3. That a neighboring shop holder has led evidence showing that the suit premises are kept in locked condition for last 16 to 17 years.

4.4. That during pendency of the appeal itself, the suit premises were demolished, being dilapidated and therefore the Respondent-Tenant is not entitled to seek re-possession. He relied upon following judgments in support of his case.

- i. Shakuntala Bai and Ors. Vs. Narayan Das and Ors. [(2004) 5 SCC 772].

- ii. Rajendrakumar Sharandas Sharma Vs. Shrikrushna Babanrao Guhe (Dead) through Legal Heirs Asha d/o Shrikrushna Guhe and Anr. [2010(5) Mh.L.J. 150].
- iii. Abdul Khuddus V. H.M. Chandiramani (Dead) through Legal Representatives and Ors. [(2021) 15 SCC 474].

5. On the other hand, Mr. Kulkarni, learned counsel for the Respondent-Tenant, submitted as under.

5.1. That even if the suit premises is demolished completely, the Tenant's right subsists. He relied on the judgment of **Shaha Ratansi Khimji and Sons V. Kumbhar Sons Hotel Private Limited and Ors. [(2014) 14 SCC 1]** in support of his submission. That demolition of the suit building will not affect the rights of the Tenant and as such, the Landlord is required to prove *bona fide* requirement even today.

5.2. Inviting the Court's attention to averments in the plaint, he submitted that the Plaintiff himself has come with a case that the suit structure is very old building constructed 85 to 90 years ago, which is in dilapidated and dangerous condition, for which corporation has issued notice. He submitted that with such averments, the case that Landlord will get suit premises repaired and use for himself, is utterly unbelievable and cannot be called *bona fide*.

5.3. That landlord himself has admitted in the plaint that suit premises are in dilapidated condition and therefore it cannot be said that tenant has not used it without reasonable cause. That dilapidated condition itself is the cause for alleged non-user.

5.4. That the requirement is not pleaded under Section 16(1)(k) of the MRC Act and therefore the requirement for erecting new

structure should not be confused with the requirement pleaded.

5.5. That before the Appellate Court, a stand is taken by the Landlord that once the suit premises are demolished by municipal corporation, the right of tenancy does not subsist.

5.6. That the premises of Tenant given on licence to bank cannot be compared with the suit premises which is a godown. That the neighboring shop holder examined by the landlord is not reliable in view of his admissions.

6. In rejoinder Mr. Ingale, learned counsel for the Revision Applicant-Landlord, relying upon the judgment of **Abdul Khuddus (Supra)** contended that in case of statutory tenant, the rights and liabilities must be held to be governed entirely under the special statute such as MRC Act and provisions of Transfer of Property Act cannot be invoked to take shelter of the view taken in **Shaha Ratansi Khimji (Supra)**. He submitted that specific defense about existence of tenancy rights even after demolition of suit premises is missing in the written statement. He submitted that how to use the suit premises after its recovery is Landlord's prerogative and Tenant cannot have any say in the same.

#### **REASONS AND CONCLUSION.**

7. I have considered the rival submissions and perused the record.

8. At the outset, it is important to note that the relationship between the parties as Landlord and Tenant is not disputed and it is

also not disputed that pursuant to notice issued by local municipal corporation, the suit building which was in dilapidated and dangerous condition, has been demolished including the suit premises and suit premises are not in existence.

9. The moot question under consideration here is that whether on destruction/demolition of the suit premises, the tenancy rights can be held as subsisting and consequently whether the rival parties can be heard to have rival claims about it.

10. In **Shaha Ratansi Khimji (Supra)**, the Hon'ble Supreme Court, in paragraph No. 27, has summarized as below.

“27. It has been further opined in *T. Lakshmipathi case* that once a tenancy is created in respect of a building standing on the land it is the building and the land which are components of the subject-matter of demise and the destruction of the building alone does not determine the tenancy when the land which is the site of the building continues to exist. This interpretation, as we find, is in accord with Section 108 of the Act. It is reflectible that in *Vannattankandy Ibrayi case*, the two-Judge Bench observed that the rights stand extinguished as on the distinction of the demise, for there is destruction of the superstructure and in its non-existence there is no subject-matter. Thus, the land has been kept out of the concept of subject-matter. In our considered opinion, the Court in the said case failed to appreciate that there are two categories of subject-matters, combined in a singular capsule, which is the essence of provision under the Transfer of Property Act and not restricted to a singular one, that is, the superstructure. In *T. Lakshmipathi* the Court took note of the fact that the land and

superstructure standing on it as a singular component for the purpose of tenancy. It is in tune with the statutory provision. Therefore, we agree with the proposition stated therein to the effect that: (SCC p. 162, para 24)

"24.... in the event of the tenancy having been created in respect of a building standing on the land, it is the building and the land which are both components of the subject-matter of demise and the destruction of the building alone does not determine the tenancy when the land which was the site of the building continues to exist...."

On the touchstone of this analysis, we respectfully opine that the decision rendered in *Vannattankandy Ibrayi* does not correctly lay down the law and it is, accordingly, overruled."

[emphasis supplied]

11. It is therefore clear that once the tenancy is created in respect the premises in the building standing on the land, it is 'the building and the land' which are both components of subject matter of demise and destruction of building alone does not determine the tenancy when the land which is the site of building continues to exist.

12. In the present case, admittedly, suit premises are situated on the ground floor in the form of godown in the suit building. Therefore, applying the principle enunciated above in **Shaha Ratansi Khimji (Supra)**, I hold that the tenancy right of the Respondent subsists and it cannot be accepted that because the suit premises are demolished, nothing survives for consideration.

13. However, when the Court holds that despite demolition of suit premises, the tenancy survives, the rights and liabilities of 'both the parties' i.e. Landlord as well as Tenant, also survive for making rival claims on the basis of the provisions of MRC Act under which the suit was filed. I am drawing support from the recent judgment of the Hon'ble Supreme Court in **Abdul Khuddus (Supra)**, where the Hon'ble Supreme Court has considered the rights and liabilities of 'a statutory tenant' under rent legislation and has held that a statutory tenant is governed by the concerned Rent Act in question and cannot invoke the provisions of Transfer of Property Act, 1882. In the said case, the Hon'ble Supreme Court was considering Karnataka Rent Control Act, 1961. Drawing parallel, I am holding that the provisions of MRC Act, as applicable to parties on the date of suit, shall continue to apply and therefore both the Revision Applicant-Landlord and Respondent-Tenant shall be governed by provisions of MRC Act and therefore the ground of *bona-fide* requirement can be considered on merits even after demolition of suit premises.

14. The aspect of subsequent developments and its effect on the rights of landlord to seek possession has been considered in catena of judgments. Let us consider a few of them.

15. In **Gaya Prasad v/s. Pradeep Srivastava [(2001) 2 SCC 604]**, the Hon'ble Supreme Court has held that crucial date for deciding as to bona fide requirement, is date of filing of suit and subsequent events to overshadow genuineness of need must be of such nature and dimension that the need propounded by the landlord should have been completely eclipsed. The case at hand will have to be

considered in light thereof. In the said judgment, it is held by the Hon'ble Supreme Court as under:

“10. We have no doubt that the crucial date for deciding as to the bona fides of the requirement of the landlord is the date of his application for eviction. The antecedent days may perhaps have utility for him to reach the said crucial date of consideration. If every subsequent development during the post-petition period is to be taken into account for judging the bona fides of the requirement pleaded by the landlord there would perhaps be no end so long as the unfortunate situation in our litigative slow-process system subsists. During 23 years, after the landlord moved for eviction on the ground that his son needed the building, neither the landlord nor his son is expected to remain idle without doing any work, lest, joining any new assignment or starting any new work would be at the peril of forfeiting his requirement to occupy the building. It is a stark reality that the longer is the life of the litigation the more would be the number of developments sprouting up during the long interregnum. If a young entrepreneur decides to launch a new enterprise and on that ground he or his father seeks eviction of a tenant from the building, the proposed enterprise would not get faded out by subsequent developments during the traditional lengthy longevity of the litigation. His need may get dusted, patina might stick on its surface, nonetheless the need would remain intact. All that is needed is to erase the patina and see the gloss. It is pernicious, and we may say, unjust to shut the door before an applicant just on the eve of his reaching the finale, after passing through all the previous levels of the litigation, merely on the ground that certain developments occurred pendente lite, because the opposite party succeeded in prolonging the matter for such unduly long period.”

[emphasis supplied]

16. The judgment of **Pasupuleti Venkateswarlu V. The Motor & General Traders [(1975) 1 SCC 770]** of three-Judges Bench of Hon'ble Supreme Court was taken note of in the case **Gaya Prasad (supra)** and it was held that the said judgment forewarned that the cognizance of subsequent events should be taken very cautiously.

17. In **Shakuntala Bai (Supra)**, the Hon'ble Supreme Court was considering the effect of death of original landlord during pendency of the appeal where Hon'ble Supreme Court held that *bona fide* need of landlord has to be examined on the date of institution of proceedings. In the said case, after the death of landlord, the plaint was amended to the effect that the business shall be carried out by a widow assisted by one of her sons. In this context, the Hon'ble Supreme Court held that by reason of death of original landlord, *bona fide* need would not come to an end and therefore eviction suit would not be liable to be dismissed. In this judgment, Hon'ble Supreme Court held that crucial date for deciding is date of institution of the proceedings.

18. In the Judgment of **Sheshambal (dead) through LRs. v/s Chelur Corporation Chelur Building and Ors. [(2010) 3 SCC 470]**, the Hon'ble Supreme Court has observed in paragraph 17 that subsequent events having bearing on the right to seek relief can not be shut out from consideration and the Court is expected to 'examine the impact of such subsequent development' on the right to relief and if necessary, mould the relief suitably so that the same is tailored to the situation on the date of grant of relief.

19. In the recent judgment of **D. Sasi Kumar V. Soundararajan [(2019) 9 SCC 282]**, the Hon'ble Supreme Court has re-iterated the above law laid down in **Gaya Prasad (supra)**. In this case, the Hon'ble Supreme Court was considering *bona fide* requirement and it is held that once landlord establishes *bona fide* requirement 'on the date of institution of suit' the same subsists irrespective of delay in adjudication and declining relief to the landlord on the ground of delay is impermissible, as it would encourage the tenants to protract the litigation.

20. Hence, the settled position of law, as emerging from the judgments discussed above is that in the proceedings under the Rent Act seeking eviction, subsequent events and its effect on the relief claimed are material consideration for the purpose of decision at Appellate stage.

21. Development in the lives of landlord can not be expected to come to a standstill during pendency of eviction proceedings, especially in view of delay in legal system. There can be myriad of subsequent developments and situations. Therefore, to decide the impact of subsequent development, it is obvious that such effect has to be seen in the facts of each case and no straight jacket formula can be adopted. It is beyond dispute that unless the requirement is completely eclipsed / extinguished, suit for eviction can not be dismissed.

22. In the present case, admittedly, the ground for eviction which is pressed into service is under section 16(1)(g) r/w. 16(1)(n) of the MRC Act. This position is admitted and agreed between the learned

counsel for the parties. The present suit is not being pressed on the ground of Section 16(1)(i) of MRC Act which provides for premises being reasonably and *bona fide* required by landlord for immediate purpose of demolition for the purpose of erecting new building. In that view of the matter, the judgment relied upon by the Revision Applicant-Landlord in the case of **Rajendrakumar Sharandas Sharma (Supra)** is of no use to either parties, because in that case the learned Single Judge of this Court was considering the case where these two grounds under Sections 16(1)(g) and 16(1)(i) were pitched against each other.

23. Mr. Ingale, learned counsel for the Revision Applicant-Landlord submitted that even if it was the argument advanced before lower Appellate Court that after demolition of suit premises the right of tenancy does not subsist (as can be seen from paragraph 28 of the impugned judgment), he fairly submits that it is not the argument being advanced before this Court. Mr. Ingale fairly submitted that the judgment of **Shaha Ratansi Khimji and Abdul Khuddus (Supra)** must be considered together and the principles laid down there, should be jointly applied to the facts of this case.

24. It is the argument of the landlord that even if the tenancy subsists, even after demolition of suit premises, the requirement as pleaded by the Landlord for Revision Applicant No. 1 to start a business after his retirement from bank service, must be considered on the date of filing of suit, and he must be permitted to be pressed. On the other hand, it is submitted on behalf of Tenant that when the pleadings itself demonstrate that requirement was pleaded for 'the

suit premises in the dilapidated condition' in a very old building and when the pleadings itself indicate that the Landlord wanted to repair the suit premises and start its use, such requirement cannot be said to be *bona fide*. It is further argued on behalf of the Tenant that the suit premises being in dilapidated condition and requiring repairs, itself is the reason which will result in non-application of Section 16(1)(n) of MRC Act because there is reasonable cause in favour of Tenant.

25. In my view, once this Court holds that despite demolition of the suit premises, the tenancy right subsists, the requirement as pleaded on the date of suit will have to be considered and therefore since on the date of filing of suit, the suit premises existed, though in dilapidated condition, the requirement cannot be disbelieved. The Landlord-Applicant No. 1 has entered witness box and asserted his requirement. The oral evidence is not materially shaken in cross-examination.

26. It is no more *res-integra* that the landlord is the best judge of his requirement and it is not for the tenant or the Court to dictate terms to the Landlord as to how he should use his own premises, as held in **S. R. Babu vs. T. K. Vasudevan & Ors.** [2001 (4) ALL. MR. 536]., **Prativa Devi (Smt) vs. T. V. Krishnan** [(1996) 5 SCC 353] and **Meenal Eknath Kshirsagar (Mrs.) vs. Traders & Agencies & Another** [(1996) 5 SCC 344]. Requirement is something between a mere desire or wish and a compelling and dire necessity, as held in **Raghunath G. Panhale (Dead) By Lrs. vs. Chaganlal Sundarji & Co.** [(1999) 8 SCC 1].

27. Demolition of suit premises does not *ipso facto* annul the requirement of the landlord. Therefore, it is clear that the Applicant has established the requirement as pleaded and subsequent developments are not such as to completely eclipse / extinguish the *bona-fide* requirement.

28. It is argued before this Court on behalf of the Tenant that suit premises being in dilapidated condition itself is a reasonable cause and therefore non-user as provided under Section 16(1)(n) of MRC Act is not proved. It is material to note that the witness for the Tenant Mr. Rajesh Kirit Shaha has entered witness box and has asserted that though the Landlord has constructed modern and best-quality construction in their property City Survey No. 672, which is being used for offices of the Tenant and his family members, where he has inducted a bank as a licensee. It is asserted that this newly constructed modern space is not possible to be used as godown and therefore the suit premises is required by the Tenant and no other conveniently situated place is available with the Tenant. He has stated that despite repairs requested from the Landlord, the Landlord had not carried out such repairs. He has stated that the godown in suit premises is situated next to their own premises and therefore very convenient.

29. From this evidence, it is clear that though it is argued before this Court that condition of suit premises itself is a reasonable cause for non-user, in fact, the suit premises are kept in occupation and used as godown by the Tenant. Not only that, it is asserted by the Tenant that it is available next to their own property and therefore

very convenient and they require the suit premises. This evidence is directly contrary to what is being argued before this Court.

30. This establishes the *mala fides* on the part of the Tenant in an effort to retain the suit premises at all costs. There is nothing on record to indicate that the Respondent-Tenant applied to the Court for permission to carry out repairs if the same was not being carried out by the Landlord. In that view of the matter, there is no merit in the argument of the learned counsel for the Respondent-Tenant that the dilapidated condition of the premises is itself is a reasonable cause for ground of non-user.

31. The Landlord himself as well as P.W.-5 who is a near-by shop holder have led evidence asserting that the suit premises are not used by the Respondent for a very long time. The said evidence is not materially shaken in the cross-examination.

32. So far as comparative hardship is concerned, the Plaintiff has examined two witnesses who are Legal Officer and Managing Director of Warna Sahakari Bank, who was inducted as licensee by the Tenant in his own premises, City Survey No. 672 in a spacious 865 sq. ft. area for 5 years earning license-fee. The fact that the Tenant could give 865 sq. ft. ownership area on license to a bank itself shows that the Tenant is well-placed financially and had available space with him. The argument that that area is office-space and cannot be used for godown, is nothing but a self-serving and self-suiting stand taken by the Tenant and therefore deserves to be rejected.

33. Considering the evidence on record, the Trial Court had concluded on appreciation of evidence that both the grounds of *bona fide* requirement as well as non-user are proved by the Landlord and eviction was ordered. However, the Appeal Court considered that since the suit premises are demolished, there is no question of repair and therefore, considering the subsequent events, the ground of *bona fide* requirement was held as not surviving. The Appeal Court had also accepted the excuse of the Respondent-Tenant that they cannot use the suit premises because it is in dilapidated condition.

34. In the aforesaid facts and circumstances, I am of the considered opinion that the evidence on record is appreciated by the Appeal Court while upsetting the judgment of the Trial Court based on perverse appreciation and misreading of pleadings and evidence and in such a manner, that if allowed to stand, it would amount to miscarriage of justice. Therefore the same is being interfered with, drawing support from paragraph 10 of the Judgment of the Hon'ble Supreme Court in **Pandurang Dhondi Chougule Vs. Maruti Hari Jadhav [1965 SCC OnLine SC 83]** and paragraph 43 of the Judgment of the Hon'ble Supreme Court in **HPCL Vs. Dilbahar Singh [(2014) 9 SCC 78]**.

35. In the result, the Civil Revision Application succeeds partly. The impugned Judgment and Decree dated 12/09/2024 is quashed and set aside. Reg. Civil Appeal No. 219 of 2018 filed by the Tenant is dismissed, thereby confirming the Judgment and Decree of eviction dated 03/07/2018 in Regular Civil Suit No. 267 of 2010, only on the grounds of *bona-fide* requirement and non-user. It is clarified that the

dismissal of cross-objection by Respondent-Landlord, about ground of default and arrears of rent, is not interfered with. No order as to costs.

36. At this stage, learned Counsel for the Respondent–Tenant seeks stay to eviction decree. Having regard to the facts and circumstances narrated above, and in particular the admitted position that the suit premises were already demolished during pendency before the Appellate Court, it is not necessary to grant stay. The prayer for stay is accordingly rejected.

37. All concerned to act on duly authenticated or digitally signed copy of this order.

**(M.M. SATHAYE, J.)**