



Presented on : 03.10.2022
Registered on : 10.10.2022
Decided on : 18.06.2025
Duration : 02years 08 months 08Days,
Exh. No. 49

IN THE COURT OF DISTRICT JUDGE – 2 & A.S.J., AMRAVATI

(Presided over by Yashwant A. Goswami)

Regular Civil Appeal No.148/2022

CNR No.MHAM010049252022

Ambadas Debuji Thakur
Age: 77 Yrs. Occupation : Business,
R/o Old Cotton Market Road,
Behind Arpana Agencies, Amravati
Tq.& Dist.Amravati

.... **Appellant.**

VERSUS

1. Sacchidanand Shrinarayanji Ganediwal (Died)
Through L.Rs.
- 1 Smt. Prabhavati Sacchidanand Ganediwal
Age: 85 Yrs. Occupation : Household,
R/o. Dhanraj Lane, Amravati,
Tq. & Dist. Amravati.
2. Rajesh Sacchidanand Ganediwal
Age: 64 Yrs. Occupation : Agriculturist,
R/o. New Sandip Mangalam, Yavatmal,
Tq. & Dist. Yavatmal.
3. Naresh Sacchidanand Ganediwal
Age: 64 Yrs. Occupation : Business,
R/o.Sabanpura, Amravati,
Tq. & Dist. Amravati.
4. Dinesh Sacchidanand Ganediwal
Age: 59 Yrs. Occupation : Household,
R/o. Dhanraj Lane, Amravati,
Tq. & Dist. Amravati.

5. Sau. Ran Mohan Agrawal
Age: 63 Yrs. Occupation : Household,
R/o. Joggars Park, Bhyander, Mumbai.
6. Sau. Rajani Suresh Agrawal
Age: 63 Yrs. Occupation : Household,
R/o. 12, Pather Chowk, Seoni (M.P).
7. Sau. Durani Shyam Agrawal
Age: 57 Yrs. Occupation : Household,
R/o. Seva Sadan, Agrasen Chowk,
Nagpur, Tq. & Dist. Nagpur.

.... Respondents

APPEAL UNDER SECTION 34 OF THE RENT CONTROL ACT, 1999

Advocate for Appellant : Shri. P.H.Pimpalgaonkar
Advocate for respondents : Shri.R.M.Jain

JUDGMENT

(Dated : 18th June, 2025)

The tenant against whom the decree of eviction has been passed takes an exception to the judgment and decree dated 08.09.2022 passed in Small Cause Civil Suit No. 6/2015 by the learned 8th Jt. Civil Judge Senior Division, Amravati.

The parties herein shall be referred to as per their original nomenclature in the suit i.e. the plaintiffs' and 'the defendants'.

2. **Pleadings in brief :-**

The suit premises consist of 3 small rooms in the heart of the market, one having front edge whereas the other two rooms are located on the rear side of the room having front edge. The suit premises are located in plot no. 24/19 sheet No. 68-C. The suit building consisting of the suit premises is shown in the plaint map and

it was municipal house No. 732. In the plaint map, room Nos. 5, 6 and 9 are the suit premises shown in red colour.

3. The defendant is a monthly tenant of the original plaintiff Sacchidanand. The original plaintiff Sacchidanand died during the pendency of the suit and his legal heirs were brought on record. The monthly tenancy in respect of the suit premises is at the rate of Rs.30/- per month. All the 3 rooms are used for residential purposes. In the suit building, there exists a shop named Arpan Agency run by original plaintiff's son Naresh. The original plaintiff wants to settle his grandson Alok and Abhay and also wants to make a separate residential arrangement for Alok and his wife Shweta. Shweta is a Chartered Accountant. Alok and Shweta are in dispute, and they want to reside separately. Therefore, to facilitate Naresh continuing his business on the front edge portion and to make arrangement of residence of Alok and Shweta, the original plaintiff wants to renovate the suit building. There is one more tenant named Swatik Tea Depot. A separate suit is instituted against that Swastik Tea Depot so that the suit building can be vacated and renovated. Thus, the original plaintiff states that he requires the suit premises for the bonafide needs of his grandsons. The original plaintiff states that the defendant is having a shop in Ramlaxman Sankur at Walgaon. Hence, he prays for decree of eviction on the ground of bona fide requirement under Section 16(1)(g) of the Transfer of Property Act.

4. The plaintiffs state that against this very tenant three different actions of eviction were initiated vide RCS No. 982/1986, Sm.C.S. No. 24/1988 and Sm.C.S. No. 47/1990. The plaintiffs state

that decrees of eviction have already been passed against the defendant in all the actions of evictions. The plaintiffs state that while defending these actions of eviction, the defendant has seriously disputed title of the plaintiffs to the suit premises and by the findings of the courts of competent jurisdiction on 2 to 3 occasions, the plaintiffs were held as owners of the suit premises. The plaintiffs further submit that as the tenant has questioned the title of the landlord, they are entitled to recover possession under Section 111(g) of the Transfer of Property Act. Thus, on the grounds of forfeiture of tenancy, they pray to pass decree of eviction as well.

5. The defendant filed a written statement at Exhibit No. 24. Almost all the statements in the plaint are denied and the plaintiffs were put to strict proof to prove the location of three rooms, their measurement and overall description of the suit building. The defendant denies the bonafide need for plaintiffs' son Naresh and grandson Alok with his wife Shweta. The defendant states that the plaintiff has various properties and they can accommodate themselves in other properties as such the bonafide need expressed by the plaintiffs is false. The defendant denies that the plaintiff is owner of plot no. 24/19 forming part of Nazul sheet No. 68/C. The defendant denies that the suit property has been bequeathed to Naresh by a registered Will. The defendant states that the grounds of eviction are raised only with intent to take illegal possession of the suit premises. The defendant denies the power of attorney in favour of Naresh. The defendant states that the brother of plaintiff viz Bhalchandra has filed Spl.C.S. No. 155/2017 against him seeking declaration and injunction in respect of plot no. 24/8. In the said suit, the defendant states that Bhalchandra

has specifically mentioned that the plot admeasuring 85,293 sq.ft. from Nazul sheet no. 24 was sold by Shri. Narayan Agrawal to Rampyaribai which subsequently came to be renumbered as 24/1. The defendant further points out that as per statement of Bhalchandra in that case, Rampyaribai went on bequeathing, gifting and selling portions of the said plot from time to time in favour of his six sons and others as a result plot No. 24/1 divided into various parts from 24/1 to 24/20. The defendant states that Rampyaribai had absolutely no authority to transfer plots owned by her. The defendant states that from the statement of Bhalchandra he got knowledge that the claim of the plaintiffs in respect of suit plot is under cloud of suspicion. The defendant states that the plaintiffs in the present suit have miserably failed to prove their right, title and ownership as regards suit plots in capacity of landlord. The defendant states that his mistaken behaviour to pay rent does not bestow ownership or title as a landlord to the plaintiffs. The defendant states that as a brother of the original plaintiff viz Bhalchandra has clearly made out a case in favour of the defendant, wherein Bhalchandra claims himself to be owner of the suit property, For this, the defendant claims protection from eviction even under Section 111(g) of the Transfer of Property Act. The defendant denies forfeiture of tenancy for questioning the title of the landlord. The defendant reiterated that the plaintiffs are not owners of the plot on which the suit property is developed. He adds that there are no authenticated documents filed by the plaintiffs showing that they are owners of the property on which the defendant is residing. The defendant denies that the plaintiffs are not having sufficient place for residence. He states that the plaintiffs are originally from Borgaon, Dist. Yavatmal and there is sufficient place for the plaintiffs and family members to reside at village Borgaon. The defendant states that

plaintiffs are having sufficient accommodation in Amravati city and also outside of Amravati city. He states that Naresh owns properties in Amravati city and other cities as well. With this, he prays to dismiss the suit.

6. The learned Trial Judge held that the suit premises are bonafide required by the plaintiffs. The Trial Judge held that the plaintiffs would suffer more hardship than the defendant if the decree of eviction is refused. The Trial Judge further upheld decree of eviction on the ground of forfeiture of tenancy under Section 111(g) of the Transfer of Property Act. This very decree is impugned before me in this present appeal.

7. The points for consideration along with my finding thereon with reasons therefor are as under: -

POINT FOR DETERMINATION

Sr. No.	Point	Findings
1.	Whether the suit premises are reasonably and bonafide required by the plaintiffs for accommodation of Naresh, Alok and Shweta?	.. No.
2.	Who would suffer greater hardship by passing the decree than by refusing to pass it?	.. The defendant
3.	Whether the tenancy has been forfeited as per the provisions under Section 111(g) of the Transfer of Property Act?	...Yes.

4.	Whether the judgment and order passed by the Ld. Trial Judge needs interference?	.. To the extent of finding as to bonafide requirement.
5.	What order?	Appeal is dismissed.

As to point No.1

8. The plaintiffs state that the premises are in dilapidated condition. Rooms are shown as room Nos. 5, 6 and 9 on the map attached to the plaint. The plaintiffs state that the rooms are bonafide required for residence of Alok and his wife Shweta. Naresh (PW 1) reiterates the pleading in the plaint to bolster bonafide requirement. One room is on the front edge. There is a lane with an open space in between and two rooms are located after the lane. Naresh (PW 1) deposed about renovation. Not only that Naresh (PW 1) deposes that Alok has filed an independent suit to recover possession by obtaining decree of eviction from Swastik Tea Depot. He deposes that once he gets vacant possession of the suit building, it is possible for him to renovate.

9. It is true that the defendant has not stepped into the witness box and a voluminous written statement went in vain without supporting assertions on oath. However, to my mind, the requirement of Alok and Shweta can be understood pragmatically but what Section 16(1)(g) contemplates is the requirement of accommodation in the suit premises as they are. Under the ground of bonafide requirement, a landlord is not permitted to vacate the building and renovate or re-develop the suit premises. Particularly when Section 16 (g) of Transfer of Property Act is appreciated with Section 16(2) of Transfer of Property

Act, it speaks about reasonable accommodation which mandates the court to consider hardship. Therefore, vacating the entire suit building and renovating suit premises is beyond purview of Section 16(1)(g) of Transfer of Property Act. _The sacrosanct preordained thought under bonafide requirement does not get satisfied when it comes with renovation by vacating the entire suit building with substantial alterations under guise of renovation._Therefore, even accepting evidence of Naresh (PW 1) as it is, renovation by vacating suit building goes beyond purview of Section 16(1)(g) of Transfer of Property Act. Had it been simply accommodation by Alok and Shweta, the requirement could have been squarely covered under Section 16(1)(g) of Transfer of Property Act. In this view of the matter, I answer point No.1 in the negative.

As to Point No. 2:-

10. As already observed, the plaintiffs are not ready to accommodate or fit in with the existing structure of the rooms. They want to increase the frontage for Naresh and by making substantive changes to the suit premises. They want to rearrange the three rooms to suit the accommodation for Alok and Shweta. On the other hand, the defendant is squeezing himself fit in the existing suit premises. Therefore, the requirement gives embellishment of affluence and luxury, if appreciated with renovation, vacating the suit building, in contrast with the tenant ready to accommodate in the very premises in dilapidated state. In this view of the matter, I hold that it is the tenant who would suffer more hardship by passing the decree. Hence, I answer point No.2 as in favour of the tenant/defendant.

As to Point No..3:-

11. Certified copies of judgments in Spl.C.S. No. 929/86 (Exhibit No. 60), Sm.C.S. No. 24/88(Exhibit No. 61) and Sm.C.S. No. 247/90(Exhibit No. 62) are filed. All the suits are decreed against the tenants in respect of the very suit premises which are subject matter in the present suit. It is clear from the judgments that the tenant had denied the plaintiffs' ownership and title to the suit premises. In all three judgments, the court has unequivocally declared the plaintiffs as owners of the suit premises and landlord of the tenants in respect of the suit premises. While filing a written statement in the present action of eviction as well, the defendant has made scathing and scurrilous allegations questioning the title of the plaintiffs to the suit premises. The defendant has attempted to set up title as a landlord in Bhalchandra, brother of the original plaintiff. At the same time, the tenant tries to wriggle out all these allegations and statements stating that he is only playing the story depicted by Bhalchandra.

12. To me, this is not permissible for a tenant to question title of the landlord believing pleadings of some third person. His belief on the statement of Bhalchandra and his denial to the statement on oath by landlord does bring him in trouble. However, in four different actions of eviction, when the tenant clearly deposes that the plaintiffs are not owners of the suit building so also the suit premises and puts landlord to strict proof, in such behaviour the defendant certainly invites risk of forfeiture under section 111(g) of Transfer of Property Act. It is interesting to note that the very defendant continues to pay the rent to the plaintiffs whereas taking somersault states in the written statement that just because he was paying rent to the plaintiffs that should not be

treated as proof about his ownership or status as a landlord of the suit premises. In every action of eviction, the plaintiffs were made to prove the gift deed by which Sacchidanand became owner of the suit property. In the present case Naresh (PW 1) has examined attesting witness to the Will and establishes that he is the owner of the suit property. The conduct of the defendant cannot be ignored as it has iterations, it is persistent, and it is wanton act on the part of the tenant to question the title of the landlord despite three decrees of eviction against him. In each of these decrees, the title of the landlord has been proved, and the Court has upheld his title by judicial finding.

13. Shri Jain, the learned counsel for the plaintiff places reliance on the judgment of Hon'ble Supreme Court in Majati Subbarao Vs. P.V.K. Krishna Rao [AIR 1989 Supreme Court 2187] wherein it is observed that a denial of title in the course of eviction petition constitutes a ground for eviction provided the denial is not bona fide and it is not necessary that in order to constitute a ground for eviction the denial of title must be anterior to the filing of the eviction petition. In the case at hand, there are series of acts by which the tenant has questioned title of the landlord. Those acts are deliberate, iterative, persistent, and offending as well. Hence, I am convinced that this is a fit case where the tenant has forfeited tenancy for disputing title of the landlord under Section 111 (g) of the Transfer of Property Act. The defendant has written so many things disputing the title of the plaintiffs, however he miserably failed to substantiate the same by entering into the witness box or by examining the witness in support of this assertion. The defendant failed to substantiate those allegations by tendering supporting documents. Hence, at one end defendant

continues to pay rent whereas at another he continues to question title of the landlord. Against this backdrop, I am convinced that tenancy is forfeited under Section 111(g) of the Transfer of Property Act. In sequel, I answer point No.3 as affirmative.

As to Point No. 4:-

14. The learned Trial Judge has not framed the issue of bonafide requirement, hardship and forfeiture of tenancy under Section 111(g) of the Transfer of Property Act. This is almost a mandate to frame different issues and record separate findings on each of the grounds of eviction. Under the ground of bonafide requirement, it is must to frame separate issues of hardship and to record finding on the same. It appears that the learned Trial Judge has taken into consideration all the three points in one discussion which could have been avoided. The learned Trial Judge failed to appreciate the scope of Section 16(1)(g) of the Transfer of Property Act when he observed that the plaintiff's bona fide requirement is satisfied. However, I agree with learned Trial Judge that the tenancy has been forfeited under Section 111(g) of the Transfer of Property Act. In this view of the discussion, although the ultimate conclusion in both the judgments is same, the finding relating to bona fide requirement although not given separately is required to be interfered with. For the rest of the findings, I agree with learned Trial Judge. In this view of the matter, I answer point no. 4 accordingly.

As to Point No. 5:-

15. In view of my findings to point No.3, the appeal will have

to be dismissed. Hence, in answer to point no. 5, I pass the following order.

ORDER

- 1] The Appeal is dismissed.
- 2] Parties to bear their own costs.

Dt. 18.06.2025
Amravati.

(Yashwant A. Goswami)
District Judge-2 Amravati.