

**R.C.S. No.14/2016**  
**Gajanan Maharaj Sansthan**  
**-Vs-**  
**Amar Arun Sharma**

**ORDER BELOW EXH. 253**

[Passed on 23.12.2025]

1. This is an application filed by the Ld. Counsel for the defendant under order 14 rule 5 of CPC to frame additional issue. Perused the application and say filed by the Ld. Counsel for the plaintiff at Exh. 254.

2. The defendant submitted that as per the provision of section 16(2) of Maharashtra Rent Control Act, it is essential to examine comparative hardship and also if part of the property will satisfy the requirement of bonafide occupation. The application for amendment which was filed came to be rejected and appeal by way of Write Petition challenging the order rejecting the application for amendment has also been dismissed. The defendant contended that the Hon'ble Bombay High Court, while passing the order, observed that there is pleading already raised in the written statement. In para No.46 the detailed pleading is taken and it has been stated that there would no hardship upon the plaintiff and comparatively, it is the defendant who will suffer the hardship. It is necessary for the purpose of examination of the said question that the issue as to who will suffer substantive hardship, if the bonafide need is considered, whether landlord or tenant shall be framed. The issue about comparative hardship needs to be framed in order to grant full opportunity to both parties.

3. Defendant further contended that the provision of the act also provides that if the part of the property will suffice the need of the landlord, in that event he cannot claim all the property to satisfy the bonafide occupation. Therefore, this question also needs to be decided. For that purpose issue as to whether part of the property which is already vacated is sufficient to meet the requirement of the landlord shall be framed. The both issue which sought to be framed by the defendant is necessary to decide this suit on merit. Hence, Ld. Counsel for the defendant prayed for allowing the application.

4. Ld. Counsel for the plaintiff strongly opposed the application and submitted that the Hon'ble Bombay High Court in writ petition No. 5694/2025 along with other writ petition dated 04.12.2025 observed in para No.9 that issue relating to comparative hardship being based on the legal position under section 16(2) of the act of 1999 can otherwise be considered while dealing with the issue of eviction and possession which are to be adjudicated in the suit and there is no necessity for framing the separate issue in this suit. This application is invented to prolong the case when the matter is fixed fo evidence of the plaintiff. Even this court in the order dated 10.12.2025 observed that how the defendant are prolonging the matter. The witness is present since morning in the court. Hence, Ld. Counsel for the plaintiff prayed for rejection of the application.

5. Heard Ld. Counsel for the defendant and Ld. Counsel for the plaintiff.

6. It is a matter of record that Hon'ble High Court, while deciding the writ petition No.5694/2025, observed in para No.9 of the judgment that the issue relating to comparative hardship being based on the legal position under section 16(2) of the act of 1999 can otherwise be considered while dealing with the issue for eviction and possession which are to be adjudicated in the suit. Issue No.12 which is pertaining to eviction and possession of the premises can deal the issue of hardship as observed by Hon'ble Bombay High Court in para No.9 of the judgment of the writ petition No. 5694/2025. Thus, this court cannot go beyond the observation of Hon'ble High Court in the judgment of writ petition No. 5694/2025.

7. So far as the contention regarding part of the property will suffice the need of the landlord, in that event he cannot claim all the property to satisfy the bonafide occupation is concerned, it is pertinent to note that there is no pleading in the written statement to the effect that the part of the property will suffice and satisfy the need of the landlord. Hence, this issue without the pleading in respect of part of the property satisfying the bonafide need of the landlord cannot be framed. It is not the contention of the defendant in the written statement that part of the property occupied by him is sufficient to satisfy the need of the landlord. Therefore, it is well settled that issue without the pleading cannot be framed. Thus, the both issue which are sought to be framed by the defendant cannot be framed in view of the aforesaid reason. In view of above reason I am

not inclined to allow this application and proceed to pass following order.

**ORDER**

Application stands rejected.

**[ N. D. Meshram ]**  
Civil Judge Jr. Dn. Shegaon,  
Dist. Buldana.

Date : 23.12.2025.

I, *P. K. Ingle*, Stenographer of C.J.J.D. & J.M.F.C. Court No.1, Shegaon affirm that the contents of this P.D.F. file order is correct word to word as per the Original Order.