



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL REVISION APPLICATION NO. 58 OF 2009

Dr. Sharadchandra Gopalrao Wadalkar
Since deceased through his L.Rs.
Purshottam Sharadchandra Wadalkar
Age : Major, Occu. : Medical Practitioner,
R/o Venu Gopal Niwas, Ganpati Mandir
Road, Nandurbar. .. Applicant

Versus

Shri Bhagwan Ragho Vinchurkar
Since deceased through his L.Rs.

- 1A Sanjay Bhagwan Sonar
Age : 42 Years, Occu. :
R/o Girivihar Bunglow No. 12,
Nandurbar.
- 1B Hitesh Bhagwan Sonar,
Age : 40 Years, Occu. :
R/o Girivihar Bunglow No. 12,
Nandurbar.
- 1C Jayashri Suryakant Dahale,
Age : 38 Years, Occu. : Household,
R/o C/o Saurav Alankar,
Hasanpura, Ahmednagar.
- 1D Anita Cintamani,
Age : 36 Years, Occu.
R/o Jamkhed, Dist. Nagar.

1E Sangita Shamseth Mayur,
Age : 34 Years, Occu. : Household,
R/o C/o Mayur Jewellers, Sangamner,
Dist. Nagar.

1F Jyoti Santosh Maid,
Age : 32 Years, Occu. : Household,
R/o C/o Dr. Maid Hospital,
Dist. Nagar.

1G Sapna Ganeshrao Kajle,
Age : 30 Years, Occu. : Household,
R/o C/o Shivajirao Kajle Jewellers,
Manchar, Dist. Pune.

1H Dipak Bhagwan Sonar,
Age : 28 Years, Occu. :
R/o Snehankarita Shopy, Alandi
Road, Bhosari, Dist. Pune.

1I Sumanbai W/o Bhagvan Sonar,
Age : 65 Years, Occu. : Household,
R/o Girivihar Bunglow No. 12,
Nandurbar.

.. Respondents

Shri Subodh P. Shah, Advocate for the Applicant.

Shri G. R. Syed, Advocate for the Respondent Nos. 1-A, 1-C, 1-E,
1-G and 1-I.

**WITH
CIVIL APPLICATION NO. 12854 OF 2023
IN
CIVIL REVISION APPLICATION NO. 58 OF 2009**

Shri Bhagwan Ragho Vinchurkar
Since deceased through his L.Rs.
Sanjay Bhagwan Sonar and others .. Applicants

Versus

Dr. Sharadchandra Gopalrao Wadalkar
Since deceased through his L.Rs.
Purushottam Gopalrao Wadalkar
and others .. Respondents

Shri G. R. Syed, Advocate for the Applicants
Shri Subodh P. Shah, Advocate for the Respondents.

CORAM : SHAILESH P. BRAHME, J.

CLOSED FOR JUDGMENT ON : 06.03.2026

JUDGMENT PRONOUNCED ON : 16.03.2026

JUDGMENT :

- . Taken up for final disposal with the consent of the parties.
2. A landlord aspiring for possession of the suit premises has approached this Court through present revision application being non suited by both the Courts below. Regular Civil Suit No 179/1982 was dismissed on 24.08.1993. Regular Civil Appeal No. 66/1993 was dismissed on 12.06.2008.
3. The applicant is the owner of City Survey No. 3102 situated at Nandurbar. The shop premises admeasuring 154 square feet out of City Survey No. 3102 was let out to the respondent who was running tailoring business since 1970. The applicant was the medical practitioner and he wanted the suit

premises for constructing maternity home. A notice was issued on 27.09.1982 terminating the tenancy. The suit for eviction was filed under Bombay Rent Act on the ground of bonafide requirement. Later on attempt was made to resort to other grounds like non user, acquiring accommodation and alteration without permission.

4. The respondent contested the suit raising various pleas. It is contended that the requirement pressed into service was not genuine. The applicant is alleged to have been in possession of other premises at Nandurbar and he is stated to be affluent having lucrative medical practice. It is further contended that tenant had no other premises to run the tailoring business which was the only source of income. He is stated to have suffered greater hardship in case of passing of decree of eviction.

5. Both parties adduced oral evidence by examining themselves and other witnesses. They placed on record documentary evidence in support of their claims. The Trial Court dismissed the suit. In appeal, three additional issues were framed and for recording findings matter was relegated to the Trial Court. The Trial Court returned findings in favour of the respondent tenant on 28.08.2006. Appellant raised additional grounds challenging those findings. The cross objection was preferred by the respondent before the Appellate Court in respect of the findings recorded for the issue of jurisdiction of the Civil Court. Ultimately, appellate Court dismissed the appeal as well as cross objection.

6. At the outset it needs to be clarified that in the Courts below parties have rival claims as to whether it was tenancy or license. Additional issues of separate grounds of eviction were framed by the appellate Court and the findings were recorded in favour of the respondent. Learned counsel Mr. Subodh Shaha has canvassed the submissions only on the ground of bona fide requirement and comparative hardship. Other grounds of evictions and other submissions have not been pressed into service.

7. During pendency of the revision application, applicant Dr. Sharadchandra Wadalkar passed away on 15.07.2017. His son Dr. Purushottam Sharadchandra Wadalkar is brought on record. So is the case with respondent tenant. Civil Application No. 12854/2023 is preferred by respondent under Order XLI Rule 27 of the Code of Civil Procedure seeking permission to consider additional evidence.

8. The applicant had preferred writ petition challenging judgment passed by the appellate Court in Regular Civil Appeal No. 66/1993. It was permitted to be converted into civil revision application. By way of civil application, referred above City Survey extracts of the subject matter and the adjoining premises belonging to the applicant landlord and their photographs are sought to be brought on record. The photographs are being filed for the first time in the High Court and those are objected by the applicant. It is not permissible to invoke powers under Order XLI Rule 27 of C.P.C. because revision application cannot be said

to be continuation of suit or appeal. The documents in question could have been produced either in the Trial Court or Appellate Court. I find no merit in the civil application and it is liable to be rejected.

9. Learned counsel for the applicant Mr. Shah submits that both Courts below committed manifest illegality in discarding ground of *bona fide* requirement and comparative hardship. The voluminous record is produced before the Court disclosing genuine need for constructing maternity home. Both courts below exceeded their jurisdiction in non suiting the applicant. The need is doubted for perverse reasons. It is submitted that even alternate premises was also offered to the respondent but it was refused which reflects audacity of the tenant. It is vehemently submitted that applicant's son was taking education at the relevant time and later on he started his medical practice and the need is subsisting. As against that the respondent has acquired premises and no hardship would be caused to him.

10. Learned counsel Mr. G. R. Syed repeals the submissions on the ground that only small portion of 154 square feet was let out to his client out of 1800 square feet. The applicant is in possession of alternate premises and has lucrative practice. The requirement is absolutely concocted. It is submitted that dishonest and false claim has been set up to evict the respondent. It is submitted that due to death of landlord, requirement of the premises is eclipsed. It is further submitted that both courts below have dealt with all aspects of the matter and have arrived

at plausible and reasonable conclusion. It is submitted that reappraisal of evidence is not permissible and the findings of the Courts below cannot be said to be perverse or illegal.

11. It is not disputed that the applicant had purchased four units by sale-deed dated 14.03.1966 which is at Exh. 66. Those units form a cluster as they are adjoining. Following are the material particulars :

Sr. No.	CTS No.	Description of building	Area
1)	666 B/2, 667, 667/A and 668/A	A three storied house.	1127 sq.ft.
2)	3005	A single storied building adjoining Sr.No. 1 to its north Also accommodated a wooden staircase to reach second floor of the three stories house	450 sq.ft.
3)	3018	Open space adjoining Sr.No. II to its West	112 sq.ft.
4)	3102	Open plot adjoining Sr.No. 3 to its North	Roughly 154 sq.ft.

12. The applicant was medical practitioner. He needed shop premises for construction of maternity home. To make out ground of *bona fide* requirement besides oral evidence, following three documents were filed on record:

- (i) A map of proposed construction at Exh. 111.
- (ii) Application dated 22.02.1974 at Exh. 68 submitted to Collector and,
- (iii) Purchase receipt of cement bags at Exh. 69 and 70.

In those days permission was required to purchase cement and accordingly application was made. The Trial Court castigated doubts on the application Exh. 68 and the admissions of P.W. 2. Application Exh. 68 is for corroboration. It shows the preparedness to go for construction. Even cement was also procured. There is no inconsistency in the cross-examination of P.W. 2 and the contents of application Exh. 68. The inference that construction was to be erected on CTS No. 666/B/2, 667/A, 668/A is patently illegal. The landlord is not expected to prove the bona fide requirement beyond hilt.

13. The landlord was a medical practitioner. He was having adjoining premises available for construction of maternity home, which is comprising of open space and disputed property also. He wanted to construct maternity home utilizing the open spaces and the demised property. Under these circumstances his desire to have maternity home cannot be said to be unreasonable or fancy. After all he was the best judge to decide as to which was the suitable area. The Trial Court exceeded his jurisdiction in commenting upon the size of the shop or viability of construction.

14. I have gone through the findings recorded by the Appellate Court on the point of bonafide requirement. It is already recorded that Exhibit Nos. 68, 111, 69 and 70 are pressed into service in support of the ground. Applicant was the owner of various properties and he was having lucrative practice. His ability to construct maternity home is not doubted by the Courts below. The purport of application Exhibit 68 or Exhibit 111 was

not to secure permission to construct at CTS No. 3102. The authority concerned was not competent to grant any such permission for procuring the cement. The bonafides of the landlord cannot be doubted just because there is no mention of demised premises in those documents. No Court or tenant dictate a landlord to utilize his properties in a particular way only. Appellate Court committed manifest error of jurisdiction in holding that the requirement shown was tainted with oblique motive. The findings are unsustainable.

15. It is necessary to deal with comparative hardship. Both courts below have carried away by fact that applicant is in possession of various city survey numbers, purchased by him. Just because applicant is the owner of the properties which are adjoining to the suit premises would not obliterate the requirement. In this regard it is necessary to consider the conduct of the parties also. The respondent was offered alternate premises by pursis at Exhibit 98. The alternate premises is rejected by the respondent on the ground that its entrance was East facing. He wanted it to be West or North facing. His choice of the entrance has a little significance when he is at the receiving end.

16. One fact is surfacing that the premises would have been available for the respondent. His evidence and the pleadings are silent on the fact as to whether any attempts were made by him for searching the alternate premises for himself. This aspect

carries significance in the wake of law laid down by this Court in the matter of Suhasini Atmaram Parab and others Vs. B. H. Khatu reported in *2003(1) Bom. C. R. 733*. I hold that comparative hardship would be caused to the applicant in refusing the decree of eviction.

17. Learned counsel Mr. Subodh Shah has relied upon the judgment of the Coordinate Bench in the case of Goverdhandas Mulchand Agrawal and others Vs. Bherulal Uderam Bagade and another reported in *2005(3) Mh.L.J. 196* to buttress as to how should be the approach of the Court while examining ground of bonafide requirement. I have gone through para No. 27 of the judgment. Further reliance is placed on the judgment of the Supreme Court in the matter of Raghunath G. Panhale (Dead) by L.Rs. Vs. Chaganlal Sundarji and Co. reported in *(1999) 8 SCC 1*. It is relevant to quote following extracts.

“7. The above principles have been laid down in various decisions of this Court and we shall refer to a few of them which are relevant to the issue before us. It was stated in Bega Begum & Others v. Abdul Ahad Khan & Others, [1979] 1 SCC 273 that the reasonable requirement postulates an element of need" as opposed to a mere "desire or wish". It was also pointed out that if it was indeed a case of a reasonable need, the same could not be diluted by characterising it as only a mere desire. It was stated:

"The distinction between desire and need should doubtless be kept in mind but not so as to make even a genuine need as nothing but a desire".

(emphasis supplied)

It was also held that the language of the provision cannot be unduly stretched or strained as to make it impossible or extremely difficult for the landlord to get possession. If more limitations are imposed upon the

landlord holding property, it would expose itself to the vice of unconstitutionality. *Yudhishtir v. Ashok Kumar*, [1987] 1 SCC 204. The construction of the relevant statutory provision must strike a just balance between the right of the landlord and the right of the tenant. In *Bega Begum's* case the landlords adduced evidence to show that they wanted to augment their present income by starting hotel business. This was treated as a genuine need and it was held that it could not be equated with a mere desire. This Court observed that "the Act does not completely overlook the interest of the landlord" In *Mattulal v. Radhelal*, [1974] 2 SCC 365, a like principle was laid down stating that the test was not subjective but an objective one and that the Court was to judge whether the need of the landlord was reasonable and bona fide. This Court held that the Additional District Judge in that case was wrong in thinking that the landlord who wanted to start iron and steel business, had to produce proof of preparations for starting his new business, such as making arrangements for capital investment, approaching the Iron and Steel Controller for the required permits etc. This court held that the above circumstances were "wholly irrelevant" and observed :

"It is difficult to imagine how the respondent could be expected to make preparations for starting the new business unless there was reasonable prospect of his being able to obtain possession of the Lohia Bazar Shop in the near future".

8. This Court took judicial notice of long delays in Courts and observed :

"It is common but unfortunate failing of our judicial system that a litigation takes an inordinately long time in reaching final conclusion and then also it is uncertain as to how it will end and with what result" and that, therefore, "it would be too much to expect from him (landlord) that he should make preparations for starting the new business. Indeed, from a commercial and practical point of view, it would be foolish on his part to make arrangements for investment of capital, obtaining of permits and receipt of stocks of iron and steel materials when he would not know whether he would at all be able to get possession of the Lohia Bazar Shop,

and if so, when and after how many years".

9. Next comes the decision of this Court in [A.K. Veeraraghava Iyengar v. N.V. Prasad](#), AIR (1994) SC 2357. In that case, this Court observed that the need was bonafide and that the tenant failed to adduce any evidence against the "experience of landlord, his financial capacity and his readiness and willingness to start jewellery shop". In [Vinay Kumar and Ors. v. District Judge, Ghazipur and Ors.](#), [1995] Suppl. 2 SCC 586, it was contended for the tenant that the son of the landlord whose requirement was pleaded, was in government service and, therefore, he could not have any bona fide need to start private practice as a doctor. This contention was rejected. In [Rena Drego \(Mrs.\) v. Lalchand Soni and Ors.](#), [1998] 3 SCC 341 it was observed that in the light of the factual position [in that case](#), "where the (landlady) says that she needs more accommodation for her family, there is no scope for doubting the reasonableness of the requirement" It was held that the circumstances of the case raised a presumption that the requirement was bonafide and that "tenant has failed to show that the demand for eviction was made within any oblique motive". It was held that in the absence of such evidence by the tenant, the presumption of the bona fide need stood unrebutted. In [Sarla Ahuja v. United India Insurance Co.](#), [1998] 8 SCC 119 it was again observed that the Court should not proceed on the assumption that the requirement of the landlord was not bona fide and that the tenant could not dictate to the landlord as to how he should adjust himself without getting possession of the tenanted premises. It was stated in [Prativa Devi \(Smt.\) v. T.V. Krishnan](#), [1996] 5 SCC 353 and in [Meenal Eknath Kshirsagar v. Traders and Agencies & Another](#), [1996] 5 SCC 344, that the landlord was the best judge of his requirement. In [Smt. Sheela Chadha and Ors. v. Dr. Accharaj Ram Sehgal](#), [1990] Suppl. SCC 736, it was held that the landlord had the discretion to determine his need. See also in this connection the judgment of this Court in [Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta](#), [1999] 6 SCC 222. In [Raj Kumar Khaitan and Ors. v. Bibi Zubaida Khatun and Anr.](#), [1997] 11 SCC 411, this Court had even stated that it was not necessary for the landlord to state in the pleadings, the nature of the business he proposed to start."

18. Further reliance is placed on the judgment of the Coordinate Bench in the case of Shankar Bhairoba Vadangekar since deceased through L.Rs. Dattatraya Shankar Vadangekar and others Vs. Ganpati Appa Gatare since deceased through L.Rs. Smt. Sushilabai Ganpat Gatare and others reported in *2001(4) Mh. L. J. 131*. It is useful to refer to the following observations.

“23. Now, I shall proceed to consider the issue of reasonable and bona fide requirement asserted by the landlord in respect of the suit premises. Both the Courts below, in my view, have applied wrong tests to nonsuit the landlord. At the outset, I shall advert to the legal position with regard to this ground. The Apex Court in the latest decision in the case of Raghunath Panhale v. Chaganlal Sundarji (supra) has referred to catena of decisions with regard to the said issue in paragraphs 6 to 9 of the judgment and restated the legal position. It would be useful to refer to the decision in Dattairaya Laxman Kamble v. Abdul Rasul Moulali Kotkunde,. The Trial Court has relied on the decision of this Court in Sukhadeo Krishnarao Ghatode v. Laxmibai Dattatraya Mohoril, On analysing the aforesaid decisions, it is well settled that where the landlord seeks to evict a tenant on the ground of bona fide requirement he has to satisfy three tests (i) that he requires the suit premises reasonably and bona fide, (ii) that such requirement is for his own occupation and (iii) comparative hardship. It is well settled that the word "require" does not mean mere wish or fancy of the landlord. The landlord must show some need or necessity. However, it does not mean absolute need or absolute requirement. It is also well settled that the landlord is the best judge of his residential requirements, and he has complete freedom in that behalf. It is no concern of the Courts to dictate to the landlord as to how, in what manner, he should live or to prescribe for him a residential standard or their own. There is no law which deprives the landlord of the beneficial enjoyment of his property. Ordinarily speaking, the landlord, if he says he wished to use premises of which he is the owner, he is entitled to do so. What the Rent Act endeavours to provide for, is the case of a landlord who evicts the existing tenants in order that he may let them to another tenant at a rent, or exact a higher rent from the tenant on a threat of eviction. The law as enunciated by the Apex Court see Kena Drego v. Lalchand Soni, is that :

"When the landlord says that he needs more accommodation for his family, there is no scope for doubting the reasonableness of the requirement. Further, the circumstances would raise a presumption that the requirement is bona fide. It is for the tenant to show that the demand for eviction was made with any oblique motive and in the absence of any such evidence the presumption of bona fides stands unrebutted."

This principle has been reiterated by the Apex Court in the decision [referred to above](#) in the case of [Raghunath Panhale v. Chaganlal Sundarji & Co.](#)(supra). The Apex Court has reiterated the principle that the Legislature employed two terms "reasonably" and "bona fide" together, the requirement must be real and genuine from any reasonable standard. All the same, the genuineness of the requirement is not to be on par with the dire need of a landlord because the latter's need is much greater. The Apex Court has further observed that there is no warrant for presuming that the landlord's need is not bona fide. The statute enjoins that the Court should be satisfied of the requirement of the landlord. So, the Court would look into the broad aspects and if the Court feels any doubt about the bona fides of the requirement of the landlord, it is for the landlord to clear such doubts. The Apex Court has observed that it is open to the Court to presume that the landlord's requirement is bona fide and put the contesting tenant to the burden to show how the requirement is not bona fide.

24. The principles deduced from the aforesaid decisions would clearly justify the requirement of placing onus on the tenant to establish that the requirement of the landlord is not bona fide, whereas the burden on the landlord in this behalf is very light. This position is reinforced by the mandate of Section 17 of the Bombay Rent Act which provides that where a decree for eviction has been passed by the Court on the ground of reasonable and bona fide requirement, and the premises are not occupied or the work of erection is not commenced within a period of one month from the date the landlord recovers possession or the premises are re-let within one year of the said date to any person other than the original tenant, the Court may, on the application of the original tenant made within thirteen months of such date, order the landlord to place him in occupation of the premises, on the original terms and conditions, and on such order being made, the landlord and any person who may be in

occupation of the premises shall give vacant possession to the original tenant.

25. Understood thus, there is no scope for the Courts to doubt the genuineness and reasonableness of the requirement of the landlord and it can be presumed that the requirement of the landlord is bona fide, for the scheme of the [Rent Act](#) would permit such an approach in that sense, it is sufficient for the landlord to assert that the suit premises are reasonably and bona fide required by him and the onus is on the tenant to show that the suit premises are neither reasonably nor bona fide required by the landlord.

19. The principles laid down in the judgments cited by the applicant support the claim of bonafide requirement. Applicant is entitled to decree on the said ground. Further reliance is placed on the judgment of the Supreme Court in the matter of **Kanshaiya Lal Arya Vs. Md. Ehshan and others** reported in *2025 SCC OnLine SC 432*. It deals with the situation when landlord is having possession of other premises, but he wants the suit premises for particular purpose. Following are the relevant paragraphs.

“10. The law with regard to eviction of a tenant from the suit premises on the ground of bona fide need of the landlord is well settled. The need has to be a real one rather than a mere desire to get the premises vacated. The landlord is the best judge to decide which of his property should be vacated for satisfying his particular need. The tenant has no role in dictating as to which premises the landlord should get vacated for his need alleged in the suit for eviction.

11. In the case at hand, the appellant-landlord may be having some other properties under tenancy of various persons but once he has decided to get the suit premises vacated for the bona fide need of establishing an ultrasound machine for his two unemployed sons, he cannot be forced to initiate such a

proceeding against the other tenants. It is for the appellant-landlord to take a decision in this regard and once he has decided to get the suit premises vacated, no error or illegality could be pointed out in his decision. Secondly, it has come on record by clear finding of the court of first instance that the suit premises is the most suitable accommodation for establishing an ultrasound machine. The reason being that it is situated adjacent to a medical clinic and a pathological centre and is the most appropriate place for establishing any medical machine. Moreover, the appellant-landlord has also proved his capacity to invest in purchasing/establishing an ultrasound machine and that his two sons are unemployed and as such the suit premises is required to establish them in business and to augment the family's income. Therefore, the bona fide need of the appellant-landlord stands duly established.

12. Insofar as the issue that his two unemployed sons do not have any expertise/training to run the ultrasound machine, the argument is without any substance. It is common knowledge that these days medical devices such as ultrasound machines are installed and established and are ordinarily run by the technicians or the medical experts who are engaged for the said purpose. The person establishing such devices or ultrasound machines himself need not have any expertise in running the same. Therefore, the Appellate Court and the High Court were not justified in disbelieving the bona fide need of the appellantlandlord solely on the ground that his two sons do not possess any expertise for running an ultrasound machine.”

20. My attention is adverted to following observations of the judgment of **Shankar Bhairoba** (supra) are relevant.

“31. The Courts below have also taken the view that, in law, it is essential for the landlord to mention about the alleged requirement of the suit premises and in absence thereof no decree could be passed on this ground. Even this principle is no more res integra. The Apex Court, in **Raj Kumar Khaitan v. Bibi Zubaida Khatun**, has taken the view that it is not necessary for the landlord to indicate the precise nature of the business which he intends to start in the premises and even if the nature of the

business had been indicated by the landlord, nobody can bind the landlord to start the same after the suit premises are vacated.

21. The above principle discloses that the landlord is entitled to receive the possession if bonafide requirement is proved, notwithstanding the fact that the purpose for which the possession is solicited undergoes change or modification. The heir of the deceased landlord would be entitled to have possession and put the premises to use for any other commercial purpose. Both Courts below have committed error of jurisdiction in refusing decree on the ground of bonafide requirement and comparative hardship.

22. Mr. G. R. Syed, learned advocate appearing for the respondent has adverted my attention to various judgments to buttress that subsequent event of death of the original landlord needs to be considered in-justa position with the need of construction of maternity home. I have gone through the judgment of the Coordinate Bench in the case of Natwarlal Dahyabhai Shah (Since deceased through L.Rs.) and another Vs. Smt. Jadaobai W/o Mishrimal Lalwani (Since deceased through L.Rs.) and others reported in *2015(1) Mh. L. J. 365*. Learned Single Judge interalia relied upon the observations of the Apex Court in the matter of Sheshambal (Dead) Through L.Rs. Vs. Chelur Corporation Chelur Building and others reported in *(2010) 3 SCC 470*. In that case plaintiff and her husband both died and there was no material on record to show that the bonafide need subsisted. In that context it was decided in favour of the tenant and concurrent finding of fact was

quashed by High Court in allowing the writ petition. The facts are distinguishable from the case in hand. This judgment will not help the respondent.

23. Reliance is placed on the judgment of this Court in the case of Sulochana Divakar Parkar Vs. Shamrao Dinanath Bhatte and others reported in *2025 AIR CC 806*. In that case the requirement was for the landlord and his son. But both died and, therefore, it was held that the eviction decree was unsustainable. The facts of the present case are different. Further reliance is also placed on the judgment of this Court in the case of Yashodabai Gopalrao Khedkar (Since deceased) through L.Rs. Rajendra Govindrao Hatwalne Vs. Godavaribai Balkrishna @ Chatusheth Sinnarkar and others reported in *2019(5) All MR 750*. The landlady died and need is said to be eclipsed. After her death the need of requirement of daughter in law for conducting business in the suit premises was pressed into service. The facts are distinguishable and the ratio cannot be made applicable to the present case.

24. The subsequent events can be taken into account and for that purpose the principles laid down by the Supreme Court in the matter of Sheshambal (Dead) Through L.Rs. Vs. Chelur Corporation Chelur Building and others (supra) are relevant, which are as followed.

"13. Neither before the Rent Controller nor before the Appellate Authority was it argued that the requirement in question was not only the requirement of the petitioner owners of the premises but also the requirement of any other member of their family whether dependent upon them or otherwise. Not only that, even in the

petition filed before this Court the requirement pleaded was that for the deceased widowed owner of the demises premises and not of any member of her family.

15. The position may indeed have been differentiated if in the original petition the petitioner owners had pleaded their own requirement and the requirement of any member of their family dependent upon them. In such a case the demise of the original petitioners or any one of them may have made little difference for the person for whose benefit and bonafide requirement the eviction was sought could pursue the case to prove and satisfy such requirement.

17. While it is true that the right to relief must be judged by a reference to the date suit or the legal proceedings were instituted, it is equally true that if subsequent to the filing of the suit, certain developments take place that have a bearing on the right to relief claimed by a party, such subsequent events cannot be shut out from consideration. What the court in such a situation is expected to do is to examine the impact of the said subsequent development on the right to relief claimed by a party and, if necessary, mould the relief suitably so that the same is tailored to the institution that obtains on the date the relief is actually granted.”

25. A useful reference can be made to the observations of the Supreme Court in the matter of Gaya Prasad Vs. Pradeep Shrivastava reported in *(2001) 2 SCC 604*, which is as follows :

“13. In our opinion, the subsequent events to overshadow the genuineness of the need must be of such nature and of such a dimension that the need propounded by the petitioning party should have been completely eclipsed by such subsequent events. A three-Judge Bench of this Court in *Pasupuleti Venkateswarlu vs. Motor and General Traders* [1975 (1) SCC 770] which pointed to the need for re-moulding the reliefs on the strength of subsequent events affecting the cause of action in the field of rent control litigation, forewarned that cognizance of such subsequent events should be taken very cautiously. This is what learned Judges of the Bench said

then:

“We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the court can, and in many cases must, take cautious cognizance of events and developments subsequent to the institution of the proceedings provided the rules of fairness to both sides are scrupulously obeyed.”

14. The next three-Judge Bench of this Court, which approved and followed the above decision, in *Hasmat Rai vs. Raghunath Prasad* [1981 (3) SCC 103] has taken care to emphasise that the subsequent events should have wholly satisfied the requirement of the party who petitioned for eviction on the ground of personal requirement. The relevant passage is extracted below:

“Therefore, it is now incontrovertible that where possession is sought for personal requirement it would be correct despite the impairment already caused to say that the requirement pleaded by the landlord must not only exist on the date of the action but must subsist till the final decree or an order for eviction is made. If in the meantime events have cropped up which would show that the landlord's requirement is wholly satisfied then in that case his action must fail and in such a situation it is incorrect to say that as decree or order for eviction is passed against the tenant he cannot invite despite the impairment already caused the court to take into consideration subsequent events.” (Emphasis supplied)

15. The judicial tardiness, for which unfortunately our system has acquired notoriety, causes the lis to creep through the line for long long years from the start to the ultimate termini, is a malady afflicting the system. During this long interval many many events are bound to take place which might happen in relation to the parties as well as the subject matter of the lis. If the cause of action is to be submerged in such subsequent events on account of the malady of the system it shatters the confidence of the litigant, despite the impairment already caused.”

26. It is pertinent to note that the judgment of Supreme Court in the case of D. Sasi Kumar Vs. Soundarrajan reported in (2019) 9 SCC 282 was not cited before the learned Single Judge in the case of Yashodabai Gopalrao Khedkar (Since deceased) through L.Rs. Rajendra Govindrao Hatwalne Vs. Godavaribai Balkrishna @ Chatusheth Sinnarkar and others Sulochana Divakar Parkar Vs. Shamrao Dinanath Bhatte and others (supra). Learned advocate Mr. Shah is relying upon the judgment of the Supreme Court in the matter of D. Sasi Kumar Vs. Soundarrajan (supra). It is relevant to notice following extract.

“12. Further the High Court has also erroneously arrived at the conclusion that the bonafide occupation as sought should be not only on the date of the petition but it should continue to be there on the date of final adjudication of rights. Firstly, there is no material on record to indicate that the need as pleaded at the time of filing the petition does not subsist at this point. Even otherwise such conclusion cannot be reached, when it cannot be lost sight that the very judicial process consumes a long period and because of the delay in the process if the benefit is declined it would only encourage the tenants to protract the litigation so as to defeat the right. In the instant case it is noticed that the petition filed by the landlord is of the year 2004 which was disposed of by the Rent Controller only in the year 2011. The appeal was thereafter disposed of by the Appellate Authority in the year 2013. The High Court had itself taken time to dispose of the Revision Petition, only on 06.03.2017. The entire delay cannot be attributed to the landlord and deny the relief. If as on the date of filing the petition the requirement subsists and it is proved, the same would be sufficient irrespective of Authority in the year 2013. The High Court had itself taken time to dispose of the Revision Petition, only on 06.03.2017. The entire delay cannot be attributed to the landlord and deny the relief. If as on the date of filing the petition the requirement subsists and it is proved, the same would be sufficient irrespective of the time lapse in the judicial process coming to an end. This Court in the case of Gaya Prasad vs. Pradeep Srivastava, (2001) 2 SCC 604 has held that the landlord should not

be penalised for the slowness of the legal system and the crucial date for deciding the bonafide requirement of landlord is the date of application for eviction, which we hereby reiterate. The time lapse in the judicial process coming to an end. This Court in the case of Gaya Prasad vs. Pradeep Srivastava, (2001) 2 SCC 604 has held that the landlord should not be penalised for the slowness of the legal system and the crucial date for deciding the bonafide requirement of landlord is the date of application for eviction, which we hereby reiterate.”

27. Learned advocate Mr. G. R. Syed vehemently canvassed that due to death of the applicant requirement has eclipsed. In cross examination of the applicant it was disclosed that his son was taking education in the medical college. While dealing with additional issue, it has come on record that applicant's daughter in law is also in medical profession. It cannot be said in such a situation that after demise of the original land lord the premises would not be utilized for construction of hospital. This court cannot be oblivious of the fact that the suit for possession was filed in the year 1982. Landlord died in the year 2017. The present matter is getting decided in the year 2026. The inordinate delay in deciding the matter cannot be attributable to the landlord only. Had the matter been decided promptly, landlord would have been benefited by the decree of eviction. It cannot be overlooked that the respondent is successful in retaining the possession for 43 long years.

28. Mr. Subodh Shah, learned advocate for the applicant has placed on record judgment of the Coordinate Bench in the case of Hemantkumar Prabhudasji Vora Vs. Khimji Bhanji and Company, through its

Partner and others reported in *2023 SCC OnLine Bom 2365* in which the issue as to whether bonafide requirement extinguishes or not on the death of the landlord was dealt with by referring to the decisions of the Supreme Court in the matters of Gaya Prasad Vs. Pradeep Shrivastava, Sheshambal (Dead) through L.Rs. Vs. Chelur Corporation Chelur Building and others as well as D. Sasi Kumar Vs. Soundarrajan (supra). Ultimately, High Court reversed the decree passed by the lower Appellate Court and directed to evict the tenant. I also propose to adopt the same view. The upshot of above discussion is that applicant is entitled to get decree of eviction. I, therefore, pass following order.

O R D E R

- A. Civil Revision Application is allowed.
- B. The judgment and order dated 24.08.1993 and 28.08.2006 passed in R.C.S. No. 179 of 1982 by Joint Civil Judge Junior Division, Nandurbar as well as judgment and decree dated 12.06.2008 passed by the Appellate Court in R. C. A. No. 66 of 1993 is quashed and set aside.
- C. R.C.S. No. 179 of 1982 is hereby decreed.
- D. The respondent shall hand over the possession of the vacant premises to the applicant.

- E. The Civil Application No. 12854 of 2023 is rejected.
- F. Decree be drawn up accordingly.

[SHAILESH P. BRAHME, J.]

29. After pronouncement of the judgment, learned counsel appearing for the respondent – tenant seeks stay to operation and execution of the judgment passed today, as his client is desirous of approaching the Apex Court. The request is opposed by the learned counsel appearing for the applicant.

30. The respondent is in possession of the suit premises and decree of eviction has been passed first time by this Court. The possession needs to be protected for extending an opportunity to approach the Apex Court.

31. The operation and implementation of the judgment and order passed today shall stand stayed for the period of six (06) weeks from today on condition that the respondent -tenant shall furnish undertaking before this Court within a period of two (02) weeks from today stating that he shall not create any third party interest in the subject matter, shall continue to pay rent and stating other usual conditions.

[SHAILESH P. BRAHME, J.]