

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.2830 OF 2004

Manohar R. Vaidya).. Petitioner

Versus

Arvind V. Joshi and others).. Respondents

Mr.P.S. Dani for the Petitioner.

Mr.P.K. Hushing for the Respondents.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 31ST AUGUST 2005

P.C.:

. Affidavit in rejoinder of the Petitioner taken on record.

2. The challenge in this Petition is to the concurrent findings of fact. The trial Court has decreed the suit on the ground of Sections 13(1)(g) and 13(1)(k) of the Bombay Rent Act. The appellate Court has also found that the need of the landlord is genuine and reasonable and has therefore decreed the Suit on the ground of bona fide requirement. However, the appellate Court has set aside the finding of the trial Court with respect to acquisition of alternate premises.

3. The comparative hardship caused to the parties

has also been noted by Courts below. They have considered the evidence on record which establishes that the Petitioner and his wife own a couple of flats atleast, one of which is vacant. The Courts have therefore rightly concluded that the hardship to the landlords would be greater if the Suit is not decreed.

4. The requirement of Plaintiff No.4, who is the daughter of the landlord-Plaintiff No.1, has been considered and the appellate Court has found that she has proved that she genuinely requires the suit premises which are on the ground floor because of the ill-health of her husband and herself. The Courts below have considered the fact that the other premises which the Plaintiffs had recovered from their tenants were not suitable for them as these premises were not on the ground floor of the building. In such circumstances, I do not see any need to entertain the Petition. Hence, Petition rejected.

5. On the application of the learned Advocate for the Petitioner, operation of this order is stayed for eight weeks from today.