



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. _____ OF 2026
(@ SLP (C) NO.11349 OF 2025)**

MARIA MARTINS

APPELLANT

VERSUS

NOEL ZUZARTE AND OTHERS

RESPONDENTS

J U D G M E N T

ATUL S. CHANDURKAR, J.

1. Leave granted.
2. The appellant is aggrieved by the order dated 04th February 2025 passed by a learned Single Judge of the Bombay High Court¹ in Writ Petition No.1458 of 2003. By the said order, the writ petition preferred by the appellant challenging the reversal of the decree for eviction by the first Appellate Court came to be dismissed.
3. The appellant is one of the legal heirs of Mr. Francis Paul Martins. According to the legal heirs of Mr. Martins, he was a

¹ For short, “the High Court”

monthly tenant of Room Nos.59 and 63 situated at Iqbal Manzil, Dr. Ambedkar Road, Parel, Mumbai-400 012. Room No.59 had been let out to Mr. Diego Zuzarte, the predecessor of the respondents. He was paying rent to Mr. Martins and was treated as his sub-tenant. On 5th December, 1994, suit for eviction came to be filed under Section 28 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947² by the legal heirs of Mr. Martins. The eviction of the sub-tenant was sought on the ground of bonafide need of the family of the principal tenant. It was specifically pleaded that the plaintiffs required the suit premises for their bonafide need so as to occupy the same. In the written statement filed on behalf of the defendants, the case as pleaded was denied.

4. Before the Trial Court, the parties led evidence. By judgment dated 18th July 2001, the learned Judge of the Trial Court recorded a finding that the plaintiffs had proved their bonafide need in respect of Room No.59 that was occupied by the defendants as the said premises was required for privacy of the widow of Mr. Martins, who was an old lady having 87 years of age and there were six

² For short, the Act

daughters who used to visit her place. It was further held that greater hardship would be caused to the plaintiffs if the decree for eviction was not passed. The suit was, accordingly, decreed.

The defendants being aggrieved by the decree of eviction challenged the same by filing an appeal. The Appellate Court reversed the said decree on the reasoning that the plaintiff No.1, who was the widow of Mr. Martins had expired and, therefore, the bonafide need of the plaintiffs did not survive. Accordingly, the decree for eviction was set aside and the suit for eviction was dismissed.

5. The original plaintiffs being aggrieved by the reversal of the decree for eviction approached the High Court and challenged the aforesaid judgment in a writ petition filed under Article 227 of the Constitution of India. During pendency of the writ petition, the original defendants placed on record an affidavit in reply dated 12th April 2023, wherein it was stated that Room No.63 that was in occupation of the original plaintiffs was not being utilised by them and that the said room was occupied by some other persons. When the writ petition was taken up for hearing, it was noticed that the original plaintiffs had not filed any rejoinder to the defendants' affidavit. The High Court, thus, held that the plaintiffs had let out

Room No.63 despite the same being available to them which indicated that they did not bonafide require the suit premises. Accordingly, the writ petition was dismissed. Being aggrieved, one of the original plaintiffs has filed the present appeal.

6. Having heard the learned counsel for the parties and having perused the documentary material on record, we are of the view that the writ petition did not warrant dismissal solely on the ground that the original plaintiffs failed to file any rejoinder to the defendants' affidavit in reply dated 12th April 2023. In our view, all relevant material that was brought on record by both the parties ought to have been examined while deciding the writ petition. The affidavit in reply dated 12th April 2023 could have been considered as additional material in opposing the claim for eviction on the ground of bonafide need. Dismissal of the writ petition solely on the ground of non-traverse has, in our view, vitiated the impugned judgment.

7. Suffice it to observe that it was the specific case of the plaintiffs that they had bonafide need of Room No.59 occupied by the defendants as the same was required by the family for their own use and occupation. By leading evidence before the Trial Court, the plaintiffs were successful in securing the decree for

eviction. The Appellate Court reversed the said decree principally on the ground that the suit premises was primarily required for the widow of Mr. Martins, who was alive when the suit was filed but had subsequently expired. This adjudication was the subject matter of challenge at the instance of plaintiffs before the High Court. The defendants sought to support the reversal of the decree for eviction by stating in their affidavit dated 12th April 2023 that Room No.63 that was in occupation of the plaintiffs had been let out to some other persons. This factor was required to be taken into consideration along with all other evidence that was available on record while considering the challenge to the decree of the Appellate Court. The affidavit by itself could not have been the sole basis for coming to a conclusion that the plaintiffs did not bonafide need the suit premises, without examining the material on record. In this regard, we may refer to the decision in ***Atma S. Berar Vs. Mukhtiar Singh***³ wherein it was held as under:

“The power of the Court to take note of subsequent events is well-settled and undoubted. However, it is accompanied by three riders : firstly, the subsequent event should be brought promptly to the notice of the Court; secondly, it should be brought to the notice of the Court consistently with rules of procedure enabling Court to take note of such events and

³ 2002 INSC 533

affording the opposite party an opportunity of meeting or explaining such events; and thirdly, the subsequent event must have a material bearing on right to relief of any party.”

8. In this context, we are also guided by the principle laid down by this Court in ***Maganlal son of Kishanlal Godha Vs. Nanasaheb son of Udhaorao Gadewar***⁴. While dealing with a landlord-tenant dispute, it was held that the adjudication of bonafide need should be done as on the date when the suit for eviction was filed, unless some subsequent event materially changes the ground of relief. It was further held that subsequent events may be considered to have overshadowed the genuineness of the landlord’s requirement only if they are of such nature and dimension as to make it lose its significance altogether. This Court observed as under:

“17. In ***Pratap Rai Tanwani v. Uttam Chand*** [(2004) 8 SCC 490], it was held that the bona fide requirement of the landlord has to be seen on the date of the petition and the subsequent events intervening due to protracted litigation will not be relevant. It was held that the crucial date is the date of petition; therefore, the normal rule is that the rights and obligations of the parties are to be determined on the date of petition and that subsequent events can be taken into consideration for moulding the reliefs, provided such events had a material impact on those rights and obligations. It was further observed that it is 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. Therefore, the courts have to take a very pragmatic approach of the matter. It is common experience in

⁴ CA No.6125/2008 decided on 16.10.2008

our country that especially landlord-tenant litigations prolong for a long time. It is true that neither can the person who has started the litigation sit idle nor can the development of the event be stopped by him. Therefore, the crucial event should be taken as on the date when the suit for eviction was filed, unless the subsequent events materially change the ground of relief.

18. In the case of ***Gaya Prasad v. Pradeep Srivastava* [(2001) 2 SCC 604]**, this Court held that the landlord should not be penalised for the slowness of the legal system and the crucial date for deciding the facts of the requirement of the landlord is the date of his application for eviction. It is also observed that the process of litigation cannot be made the basis for denying the landlord relief unless the litigation at least reaches the final stages. However, it is further added that subsequent events may, in some situations, be considered to have overshadowed the genuineness of the landlords' needs but only if they are of such nature and dimension as to completely eclipse such need and make it lose the significance altogether."

In the light of above discussion, the High Court failed to consider whether the subsequent event as urged by the defendants had material bearing on the right claimed by the plaintiffs. It has to be borne in mind that the Trial Court had passed a decree for eviction on the basis of the evidence on record which was reversed by the Appellate Court. It was, therefore, necessary for the High Court to have taken into consideration the entire material available on record including the affidavit dated 12th April 2023. Thus, by failing to do so, the High Court failed to exercise jurisdiction vested in it while deciding the challenge to the reversal of the decree for eviction. We, therefore, find that the order passed by the High Court deserves interference.

9. The contention of the appellant that the contents of the affidavit did not warrant acceptance is an aspect that requires consideration. Since we are inclined to remand the proceedings to the Trial Court for re-consideration of the matter in the light of subsequent events, we do not intend to delve at length on this aspect or as regards the material placed on record by either party, since any observations made could prejudice the Courts. In our view, the interests of justice would be served if the proceedings are re-considered by the Trial Court in the light of material brought on record and the subsequent events that have since occurred during pendency of the proceedings. To enable the parties to buttress their respective stands, they are granted liberty to amend their pleadings in accordance with law. The Trial Court would thereafter consider the entire material on record and decide the proceedings on their own merits, uninfluenced by any observations made either by the Trial Court or by the Appellate Court.

10. Accordingly, it is held as under:

(a) The order dated 4th February 2025 passed in Writ Petition No.1458 of 2003 is set aside.

(b) The proceedings in R.A.E. Suit No.70 of 1995 are remanded to the Small Causes Court, Mumbai for being decided afresh in

accordance with law. The parties are at liberty to amend their pleadings and thereafter lead further evidence in accordance with law.

(c) Since the plaintiffs seek eviction on the ground of their bonafide need, the Trial Court shall endeavor to decide the suit within a period of one year from the date the parties appear before it, subject to co-operation by the parties.

(d) The parties shall appear before the Small Causes Court, Mumbai on 22nd April 2026.

It is clarified that we have not expressed any opinion on the merits of the case and all issues are kept open for consideration by the Trial Court in accordance with law.

11. The Civil Appeal is allowed in aforesaid terms with no order as to costs. Pending application(s), if any, are also disposed of.

.....**J.**
[**J.K.MAHESHWARI**]

.....**J.**
[**ATUL S. CHANDURKAR**]

NEW DELHI,
APRIL 16, 2026.