THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2499 OF 2024

PETITIONERS (Original Defendants) :- **1)** Sudhir S/o Nirmal Kumar Jain, Aged about 52 years, Occ: Business.

2) Mrs. Sapna W/o Sudhir Jain, Aged about 48 years, Occ: Business,

Both doing business in the name and style of "Astha Garments", House no.228, Buty Wada Main Road, Sitabuldi, Nagpur.

..**VERSUS**..

RESPONDENT (Original Plaintiff) :- Shrikrishna S/o Prafulla Buty, Aged about 49 years, Occ: Business and agriculturist, R/o Shraddhanand Peth, South Ambazari Road, Nagpur.

WITH
WRIT PETITION NO.3044 OF 2024

PETITIONERS :- **1)** Narendra s/o Nirmalkumar Jain, Aged about: 63 yrs, Occ: Business,

2) Mrs. Sukriti w/o Narendra Jain Aged about 55 yrs, Occ: Business

Both doing the business in the name and style as "S.K. Mens" House No.228, Buty Wada, Main Road, Sitabuldi, Nagpur.

..**VERSUS**..

RESPONDENT :- Shrikrishna s/o Prafulla Buty,
Aged about 55 yrs, Occ.: Busi./Agri.
R/o: Shradhanand Peth, South Ambazari Road, Nagpur-22.

Mr M.G. Bhangde, Senior Advocate a/b Mr. A.G. Baheti, Advocate for Petitioner in WP No.2499/2024.
Mr. C.S. Samudra, Advocate for Respondent.
Mr. J.M. Gandhi, Advocate for Petitioner in WP No.3044/2024.

CORAM : ROHIT W. JOSHI, J.
RESERVED ON : 03.08.2026
PRONOUNCED ON : 30.09.2026

JUDGMENT :

1. Heard finally with consent of learned advocates for the respective parties.

2. The petitioner No.1 in both the petitions are real brothers. The petitioner No.2 in the petitions are wives of petitioner No.1 in the respective petitions. The petitioners are in occupation of suit properties which are adjoining shop blocks as tenants of the respondent. The respondent had instituted two separate suits for eviction against the petitioners on

the ground of bona fide need which came to be decreed. Appeals preferred by the petitioners are also dismissed and accordingly the present petitions are filed in order to assail the said concurrent decrees for eviction. The petitioners will be referred as tenants and respondent will be referred as landlord.

Writ Petition No.2499 of 2024.

3. The suit property in this petition comprises of a shop block comprising of ground plus one floor, admeasuring around 64 sq.mtr., 32 sq.mtr. on each floor, being a part of Nagpur Municipal Corporation House No.228, situated on land bearing City Survey No.3230 of Mouza Sitabuldi, Nagpur. The suit property is let on rent by the respondent/landlord to the petitioners/tenants on a monthly rent of Rs.1269.53/-, excluding electricity charges, water consumption charges, corporation taxes, etc. The suit property was let by the respondent to the petitioners by a registered lease deed dated 31.08.2001. The tenure of the lease is for a period of 12 years

commencing from 01.09.2001 and ending on 31.08.2013.

4. After the term of 12 years expired on 31.08.2013, the tenants issued a notice calling upon the landlord to execute a fresh lease deed for a subsequent period of 12 years as per clause 3 of the agreement of tenancy. The landlord issued a reply notice dated 01.10.2013 denying the demand of tenants for execution of fresh lease deed and also raised a demand for vacation of the premises for his bonafide need. The landlord instituted a suit for eviction being Regular Civil Suit No.370 of 2014 on the ground of bonafide need. The said suit came to be decreed by the learned trial Court by judgment and decree dated 22.04.2017. The tenants preferred an appeal being Regular Civil Appeal No.382 of 2017 which came to be dismissed by judgment and decree dated 30.03.2021. The tenants had filed four applications vide Exhibits 42, 46, 47 and 50 which were also rejected by the learned Appellate Court

while dismissing the appeal. The tenants preferred Writ Petition No.2513 of 2021 challenging the judgment and decree passed by the Appellate Court on 30.03.2021 which was allowed by judgment dated 05.6.2023. The appeal was remanded for deciding the same afresh along with the aforesaid applications at Exhibits 42, 46, 47, and 50. After remand, the learned Appellate Court has dismissed the appeal by judgment and decree dated 01.03.2024 which is the subject matter of challenge in the present petition.

Writ Petition 3044 of 2024.

5. The suit property in this petition comprises of a shop block comprising of ground plus one floor, admeasuring around 64 sq.mtr., 32 sq.mtr. on each floor, being a part of Nagpur Municipal Corporation House No.228, situated on land bearing City Survey No.3230 of Mouza Sitabuldi, Nagpur. The suit property is let on rent by the respondent/landlord to the petitioners/tenants on a monthly rent of Rs.1269.53/-, excluding electricity charges, water consumption charges, corporation taxes, etc. The suit

property was let by the respondent to the petitioners by a registered lease deed dated 31.08.2001. The tenure of the lease is for a period of 12 years commencing from 01.09.2001 and ending on 31.08.2013.

6. After the term of 12 years expired on 31.08.2013, the tenants issued a notice calling upon the landlord to execute a fresh lease deed for a subsequent period of 12 years as per clause 3 of the agreement of tenancy. The landlord issued a reply notice dated 01.10.2013 denying the right of tenants for execution of a fresh lease deed and also raised a demand for vacation of the premises for his bonafide need. The landlord instituted a suit for eviction being Regular Civil Suit No.371 of 2014 on the ground of bonafide need. The said suit came to be decreed by the learned trial Court by judgment and decree dated 22.04.2017. The tenants preferred an appeal being Regular Civil Appeal No.381 of 2014 which came to be dismissed by judgment and decree dated 30.03.2021. The tenants had filed four applications

vide Exhibits 45, 49, 50, and 53 which were also rejected by the learned Appellate Court while dismissing the appeal. The tenants preferred Writ Petition No.2529 of 2021 challenging the judgment and decree passed by the Appellate Court on 30.03.2021 which was allowed by judgment dated 05.6.2023. The appeal was remanded for deciding the same afresh along with the aforesaid applications at Exhibits 45, 49, 50, and 53. After remand, the learned Appellate Court has dismissed the appeal by judgment and decree dated 01.03.2024 which is the subject matter of challenge in the present petition.

7. As stated above, in both the suits, the suit properties are adjoining shops situated in the same building. The tenants are real brothers and their wives. The respondent is their landlord. Both the suits are filed on the ground of bonafide need of starting hotel business. In both these cases, the suit properties were let under a registered lease deed for a period of 12 years on the same day. The tenure of lease in both the cases has expired on the same day.

Both the petitions involve adjudication of similar facts and same legal issues. Both the petitions are therefore being taken up for consideration together and are being decided by a common judgment.

8. As stated above, the landlord had instituted both the suits for eviction on the ground of bonafide need under Section 16(1)(g) of the Maharashtra Rent Control Act, 1999 (hereinafter referred to as “MRC Act” for brevity). The landlord has stated that he was earning his livelihood from agricultural income and from rents received from different properties. He has stated that he intended to utilize the suit property for starting hotel business. The suit properties are located in Sitabuldi area which is one of the most prominent and old market areas of Nagpur city. The suit properties are exclusively owned by the landlord. The landlord has also stated in his plaint that he held several other properties as co-owner with other family members.

9. The tenants have opposed the suit by contending that although the tenancy agreement

states that the period of tenancy is for 12 years, clause 3 of the tenancy agreement clearly provides for a right of renewal. It is the contention of tenants that the renewal of lease contemplated under clause 3 is automatic renewal and therefore the contractual tenancy between the parties subsisted as on the date of filing of suit. It is the case of defendants that the suit for eviction filed on the ground of bonafide need is not maintainable in view of subsistence of contractual tenancy as per clause 3 of the registered agreement of lease. It is also stated that although the tenancy stands renewed automatically, by way of abundant caution, the tenants have instituted a suit for specific performance of contract. As regards the case of bonafide need, the contention raised is that the need of plaintiff is not genuine and that the plaintiff has several other properties from which the alleged need can be satisfied.

10. After the suit was decreed, some of the properties owned by the plaintiff along with his family members were vacated by the tenants in occupation

of the said properties. The written statement was amended in order to bring these subsequent developments on record. As stated above, earlier applications for amendment of written statement were rejected by the learned First Appellate Court. However, petitions preferred by the tenants were allowed and the appeals were directed to be heard afresh along with the applications for amendment and application for permission to lead evidence. Thereafter, the learned Appellate Court has allowed the applications for amendment and has decided the appeals on merits.

11. The learned trial Court has passed decree for eviction accepting the case of bonafide need set up by the landlord. The issue of comparative hardship is answered against the tenants. Perusal of the judgments will demonstrate that the case of bonafide need was predominantly attacked on the ground that the plaintiff had several other properties which could be utilized for satisfying the alleged need. The learned trial Court has rejected this

contention recording that the documents on record indicated that the other properties referred by the tenants were not absolutely owned by the plaintiff and that the same were held by him as a co-owner.

12. On the point of comparative hardship, the learned trial Court has held in Regular Civil Suit No.371 of 2014 (subject matter of challenge in WP No.3044/2024) that the defendant No.1/tenant had purchased a shop block in the immediate vicinity of the suit property. The sale deed of the said property purchased by the tenant is at Exhibit 72. The learned trial Court has recorded that the area of the said shop block purchased by the defendant No.1/tenant is around 300-350 sq.ft. The learned trial Court has recorded that the defendant/tenant had suppressed the said sale deed in the written statement.

13. On the other hand, with respect to properties held by the plaintiff, the learned trial Court has recorded that the plaintiff had made disclosure about the said properties in the plaint. In view of the above issue of comparative hardship was answered against

the tenants.

14. With respect to the contention that the lease was a perpetual lease in view of clause 3 of the tenancy agreement, the learned trial Court recorded that if the lease was a perpetual lease as contended by tenants, it was not necessary for them to institute a suit for specific performance. The learned trial Court has also held that even if the lease is assumed to be a perpetual lease, right to seek eviction upon grounds enumerated in the MRC Act will be available to the landlord. Accordingly, the suit came to be decreed.

15. In Regular Civil Suit No.371 of 2014 also similar findings are recorded with respect to clause (2) of the tenancy agreement and right to file suit for eviction and on the issue of bonafide need. As regards comparative hardship, the learned trial Court has recorded that the father of defendant/tenant had instituted a suit for eviction against one Pawankumar Jain being Regular Civil Suit No.50 of 2011 with respect to shop situated at Dharaskar road, Itwari,

Nagpur on the ground of bonafide need for starting business of defendant No.1. The learned trial Court recorded that the said suit was decreed and appeal arising out of the decree for eviction was also dismissed.

16. Apart from this, the learned trial Court also recorded that the defendants have not proved that they started searching for alternate premises which could not be found despite efforts. In view of the aforesaid, the reasons for issue of comparative hardship was answered against the tenants.

17. As mentioned above, in both these cases, the tenants preferred two separate appeals. After the appeals were filed, the written statement was amended in order to contend that after institution of suit, tenants of the plaintiff in other properties had vacated the premises and thereafter the plaintiff had inducted other tenants in the said premises. It was also contended that some of the properties vacated by tenants were lying vacant from which alleged need could be satisfied.

18. The learned Appellate Court has also accepted the case of bonafide need set up by the plaintiff. The learned Appellate Court has answered the issue of comparative hardship in favour of the landlord and against the tenant in view of decree for eviction in favour of the tenants/defendants in Writ Petition No.2499/2024 and purchase of another shop by the tenants in Writ Petition No.3044/2024. As regards the property vacated by the tenants, the learned Appellate Court has held that the same were not absolutely owned by the landlord, but, were held by him as co-owner with other family members and as such, decree for eviction could not be set aside on the ground that alternate premises are available in order to satisfy the need. As regards the issue pertaining to automatic renewal of lease, the contention of the tenants is rejected holding that in the absence of a registered document of lease, for the subsequent period, it cannot be said that the lease was automatically renewed.

19. The principal contention of Mr. M.G.

Bhangde, the learned Senior Advocate and Mr. J.M. Gandhi, learned advocate appearing for the petitioners in Writ Petition Nos.2499 of 2024 and 3044 of 2024 respectively, is that the lease stood automatically renewed by operation of clause 3 of the lease deed. It is their contention that the clause for renewal contemplates automatic renewal of lease on the same terms and conditions. It is contended that the lease is a perpetual lease and further that after initial tenure of 12 years expired on 31.08.2013, the lease stood renewed with effect from 01.09.2013. It is contended that since the contractual term of tenancy was not over, a suit for eviction filed against the tenants treating them as statutory tenants was not maintainable. Mr. Bhangde, learned Senior Advocate has placed reliance on the judgment of the Hon'ble Supreme Court in the case of **Laxmidas Bapudas Darbar and another ..vs.. Rudravva and others,** reported in **(2001) 7 SCC 409** in support of the contention that suit for eviction on grounds enumerated under the Rent Act is not

maintainable during subsistance of contractual tenancy. On the basis of the said judgment, learned Senior Advocate contends that the lease continued to subsist as on the date of institution of suit and even today in view of Clause (3) of the lease deed and as such the suit filed itself was not maintainable and was required to be dismissed on this ground alone. Further, reliance is placed on **T.K. Lathika ..vs. Seth Karsandas Jamnadas**, reported in **(1999) 6 SCC 632** in order to contend that since the suit itself was not maintainable merits of the contention with respect to grounds of eviction could not have been gone into. By placing reliance on **T.K. Lathika** (supra), **Ishar Singh ..vs.. National Fertilizer and another**, reported in **1991 Supp.(2) SCC 649** and **Pursutotam and another ..vs.. Shivraj Fine Arts Litho Works and others**, reported in **(2007) 15 SCC 58,** it is argued that the issue of maintainability of suit is required to be decided with respect to date of institution of suit.

20. Mr. Gandhi, learned advocate supplements

the argument advanced by the learned Senior Advocate by placing reliance on **State of U.P. and others ..vs.. Lalji Tandon (dead) through LRs,** reported in **(2004) 1 SCC 1,** to contend that even if the argument with respect to the lease being a perpetual lease in view of clause 3 is not accepted, right to seek renewal for two terms after the expiry of initial term of 12 years cannot be disputed. The learned advocate therefore argues that the suit for eviction was liable to be dismissed on this count.

21. Both the advocates have vehemently argued that the lease was to stand renewed automatically without any further act by the parties. It is further argued that since suit for specific performance of the lease deed was pending, the learned Courts should have deferred hearing of the suit/appeal till adjudication of the suit for specific performance. It is further contended that the execution of the decree for eviction should at least be deferred till the suits for specific performance filed by the tenants are pending and that execution of the

decree should be made subject to outcome of the suit for specific performance.

22. As regards merits of the matter the contention is that case of bonafide need is not established and further that the alleged need of the property for starting restaurant can be satisfied against other properties belonging to the landlord. It is argued that during pendency of the litigation several properties occupied by other tenants were vacated, however, the same were let out again which according to the learned Advocates clearly establishes that the landlord wants to evict the tenants by raising a false contention with respect to bonafide need.

23. *Per contra*, Mr. C.S. Samudra, the learned advocate for the landlord/respondent, argues that there is no question of automatic renewal of lease. He contends that a lease for a tenure exceeding one year is necessarily required to be created by a registered document in view of Section 107 of the Transfer of Property Act, 1882. The learned advocate

has placed reliance on the judgments of the Hon'ble Supreme Court in the cases of **Hardesh Ores (P) Ltd. ..vs.. Hede and Company,** reported in **(2007) 5 SCC 614**, **Bharat Petroleum Corporation Limited ..vs.. Rama Chandrashekhar Vaidya and another**, reported in **(2014) 1 SCC 657** and **Ram Bharosay Lal Gupta (dead) by L.Rs. and others vs. Hindusthan Petroleum Corporation Ltd.,** reported in **2014(1) Mh.L.J. 617** in support of his contention.

24. As regards the contention that the hearing of the suit for eviction should have been deferred till the adjudication of suit for specific performance, the learned advocate contends that such a request was never made before the learned trial Court. It is argued that after having suffered a decree for eviction, it is not open for the tenants to turn around and to contend before this Court for the first time that the proceedings in suit for eviction should have been stayed till disposal of the suits for specific performance. Apart from this, the learned advocate

places reliance on judgments of Delhi High Court in the case of **Jai Singh Rana ..vs.. Mohinder Mohan Goel,** reported in **ILR (1995) 2 Del 188**, as also **Sunil Kapoor ..vs.. Himmat Singh**, reported in **ILR (2010) 2 Delhi 616**, and judgment of the Karnataka High Court in the case of **M. Chidambaram ..vs.. N. Sargunam**, reported in **ILR 1989 Kar 1357**. The argument is that such a prayer for deferring suit for eviction in view of pendency of suit for specific performance cannot be granted.

FINDINGS

25. The core issue in the present matter is as to whether the status of the petitioners is that of contractual tenants or statutory tenants. Another issue to be decided is as to whether the suit for eviction could be decided and decree for eviction can be executed pending suit for specific performance filed by the petitioners.

26. Clause-3 of the agreement of tenancy which is relevant for the purpose of adjudication of the present petition is reproduced herein below:-

"3] The tenancy under this deed is being created for a period of 12 year (twelve years) and on competition of the stipulated period, this tenancy under this deed shall be ***automatically renewed on the same terms and conditions****."*

27. The contention that the lease stood automatically renewed, is liable to be rejected in view of authoritative pronouncements by the Hon'ble Supreme Court in the case of **Hardesh Ores** and **Rama Chandrashekhar Vaidya** (supra). In both these cases, the Hon'ble Supreme Court has categorically laid down that a lease for a tenure exceeding one year does not stand renewed automatically in the absence of a written lease deed which is duly registered. It is clearly held that renewal of lease is not the same as extension of lease. Renewal of lease results in a new lease deed which is required to be created by a registered document alone. The said legal position is also laid down in the case of **Lalji Tandon** (supra), on which reliance is placed by the learned advocate for the

tenants. While explaining the difference between extension of lease and renewal, **Hardesh Ores** (supra) makes a reference to earlier decisions in the case of **Provash Chandra Dalui vs. Biswanath Banerjee** reported in **1989 Supp (1) SCC 487** and **Lalji Tandon** (supra) to hold that fresh lease deed is not needed in case of extension of lease, however, there cannot be automatic renewal of lease in the absence of execution of fresh lease deed. Relevant observations in **Hardesh Ores** (supra) are reproduced herein below :

> “The respondents relied on the decision of this Court in **Provash Chandra Dalui and another vs. Biswanath Banerjee and another**, wherein this Court considered the difference between "extension" and "renewal" of a lease. This Court observed thus :
>
> "14. It is pertinent to note that the word used is 'extension' and not 'renewal'. To extend means to enlarge, expand, lengthen, prolong, to carry out further than its original limit. Extension, according to Black's Law Dictionary, means enlargement of the main body; addition to something smaller than that to which it is attached; to lengthen or prolong. Thus extension

ordinarily implies the continued existence of something to be extended. The distinction between 'extension' and 'renewal' is chiefly that in the case of renewal, a new lease is required, while in the case of extension the same lease continues in force during additional period by the performance of the stipulated act."

30. The same view was reiterated by this Court in State of U.P. and others vs. Lalji Tandon (Dead) through LRs [(2004) 1 SCC 1], wherein it was observed as under :

"There is a difference between an extension of lease in accordance with the covenant in that regard contained in the principal lease and renewal of lease, again in accordance with the covenant for renewal contained in the original lease. In the case of extension it is not necessary to have a fresh deed of lease executed, as the extension of lease for the term agreed upon shall be a necessary consequence of the clause for extension. However, option for renewal consistently with the covenant for renewal has to be exercised consistently with the terms thereof and, if exercised, a fresh deed of lease shall have to be executed between the parties. Failing the execution of a fresh deed of lease, another lease for a fixed term shall not come into existence though the principal lease in spite of the expiry of the term thereof may continue by holding over for year by year or month by month, as the case may be."

31. Having regard to these decisions we must

> hold that in order to give effect to the renewal of a lease, a document has to be executed evidencing the renewal of the agreement or lease, as the case may be, and there is no concept of automatic renewal of lease by mere exercise of option by the lessee. It is, therefore, not possible to accept the submission urged on behalf of the appellants-plaintiffs that by mere exercise of option claiming renewal, the lease stood renewed automatically and there was no need for executing a document evidencing renewal of the lease."

28. The contention that the lease stood automatically renewed in view of clause (3) of the lease deed / tenancy agreement, therefore, cannot be accepted.

29. It will now be appropriate to refer to Judgment in the case of **Lalji Tandon** (supra). In the said case, the lease was granted for a period of 50 years initially in the year 1887. The lease contained a covenant for renewal. The lease was subsequently renewed in the year 1945 for a period of 50 years commencing from the year 1937 and terminating in

the year 1987. The terms of original lease were borrowed by reference in the subsequent lease. When the second tenure of lease came to an end in the year 1987, the lessee applied for renewal of lease. The Government officials also made a positive recommendation for renewal. The Government did not take any steps for resumption of the property. However, for a very long time, the lease was not renewed. In these circumstances, the lessee approached the High Court seeking a mandamus for renewal of lease. Before the High Court for the first time, the State came up with a contention that the right to seek renewal was available only once and not on the second occasion. It is in this backdrop of facts that the Hon'ble Supreme Court has held that right of renewal was available on two occasions since the covenants of the first lease deed were adopted by reference in the subsequent lease deed. The Hon'ble Supreme Court has however, held that the right of renewal was available only on two occasions and not in perpetuity. It must be stated that the right of

renewal is held to be available on two occasions because the covenants of first lease providing for renewal were incorporated in the second lease by reference.

30. In paragraph 16 of **Lalji Tandon** (supra) the Hon'ble Supreme Court has quoted with approval observations of Division Bench Judgment of Calcutta High Court in the case of **Secy. of State of India in Council vs. A.H. Forbes**, **[(1912) 17 IC 180].** Relevant observations of Calcutta High Court are reproduced herein below :

> "(1) A lease, which creates a tenancy for a term of years, may yet confer on the lessee an option of renewal.
>
> (2) If the lease does not state by whom the option is exercisable, it is exercisable (as between the lessor and lessee) by the lessee only, that is to say, a covenant for renewal, if informally expressed, is <u>enforced only in favour of the lessee.</u>
>
> (3) The option is exercisable not merely by the lessee personally but also by his representative-in-interest.

(4) If the option does not state the terms of renewal, the new lease will be for the same period and on the same terms as the original lease, in respect of all the essential conditions thereof, except as to the covenant for renewal itself.

(5) There is no sort of legal presumption against a right of perpetual renewal. The burden of strict proof is imposed upon a person claiming such a right. It should not be inferred from any equivocal expressions which may fairly be capable of being otherwise interpreted. The intention in that behalf should be clearly shown; otherwise, the agreement is satisfied and exhausted by a single renewal.

(6) A covenant for renewal runs with the land.

(7) The position of a lessee, who has been always ready and willing to accept a renewal on proper terms, is the same in equity as if a proper lease had been granted. Where the covenant for renewal was still specifically enforceable at the commencement of a suit for ejectment against the lessee, the position of the lessee in equity is the same as if it had been specifically enforced."

31. Perusal of clause (4) in **A.H. Forbes** (supra) will demonstrate that right to seek renewal of lease is available only once. It is specifically held that the new lease as per clause for renewal will not include the covenant of renewal. It implies that right to seek renewal can be enforced only once as per the original lease deed and not subsequently after initial renewal.

32. This position that right to seek renewal is available only once, unless it is agreed that the renewed lease deed will also have a clause for renewal is further clarified in **Lalji Tandon** (supra) by referring to **Green vs. Palmer**, **(1944) 1 All ER 670.** The relevant clause for renewal in **Green vs. Palmer** (supra) provided that the tenant had the option of continuing the tenancy for a period of six months on the terms and conditions included in the original deed including the clause for renewal. The said clause was interpreted to mean that the subsequent lease deed to be executed pursuant to right of renewal would also include the renewal clause and the lease could be renewed for two terms.

It is categorically laid down that the renewal beyond two terms will not be permissible. **Lalji Tandon** (supra) affirms the view taken in **Green vs. Palmer** (supra). Relevant observations in paragraph 17 and 18 of the Judgments are quoted herein below :

> “17. **Green Vs. Palmer**, (1944) 1 All ER 670, bears a close resemblance with the facts of the present case. There the parties had entered into a lease agreement for six months. One of the covenants in the lease read so :
>
> > "The tenant is hereby granted the option of continuing the tenancy for a further period of six months on the same terms and conditions including this clause, provided the tenant gives to the landlord in writing four weeks' notice of his intention to exercise his option."
>
> The plea raised on behalf of the tenant was that the clause gave him a perpetual right of renewal. Uthwatt, J. of Chancery Division held :
>
> > “The first thing one observes is that, in terms, there is granted to the tenant a single option exercisable only once upon the named event, and the subject-matter of that option is an option "of continuing the tenancy for a further period of six months on the same terms and conditions including this clause." To my mind, what that means is this : the tenant is to be allowed once, and once only, the opportunity of continuing the tenancy ____ continuing it for a further six months. Then we come to the critical words "on the same terms and condition including this clause." As I read it, that means there is included in the new tenancy agreement a right in the

> tenant, if he thinks fit, to go on for one further six months, and when you have got to that stage you have finished with the whole matter. In other words, it comes to this : "Here is your present lease. You may continue that, but I tell you, if you continue it, you continue it on the same terms as you were granted the original lease. You may continue it for a further 6 months with the right to go on for another 6 months."

Upon that footing, in the events which have happened, all the landlord was bound to do under this arrangement was to permit the tenant to occupy for a period not exceeding 18 months in the whole from the time when the original lease was granted."

18. We find ourselves in full agreement with the view of the law taken in the decisions cited hereinabove."

33. It will be appropriate to refer to the Judgment of this Court in the case of **Bharat Petroleum Corporation Limited, Mumbai vs. Champalal Vithuram Jajoo (since deceased through L.Rs.) Chandrakant Champalal Jajoo and others** reported in **(2020) 5 Mh.L.J. 114,** wherein it is held that right of renewal of lease is restricted only for one term. In arriving at this conclusion this Court has

referred to Judgment in the case of **B.P.C.L. vs. Rustom Behramji Colah (Dr.)** reported in **2006 (6) Mh.L.J. 42** and Judgment in the case of **Lalji Tandon** (supra). The legal position that right of renewal of lease is available only once is also reiterated by this Court in the case of **B.P.C.L. vs. Merium J. Batliwala** reported in **2009 (2) Mh.L.J. 776** by interpreting **Lalji Tandon** (supra).

34. In the present case the clause for renewal does not provide for further right of renewal. Clause (3) of the lease deed does not provide that the lease would be renewed by including the covenant for renewal. The present case is covered by clause (4) of Judgment of Calcutta High Court in **A.H. Forbes** (supra). In case of **Green vs. Palmer** (supra), second option for renewal was held to be available in view of the express words, '***including this clause***'. Such words are pertinently missing in clause (3) of the tenancy agreement in the present case.

35. Thus, The contention that the lease is a perpetual lease is liable to be rejected. Likewise it

will have to be held that even if the right to seek renewal is upheld, the right will be available only once. With passage of time, the tenure of renewed period of lease of 12 years has also expired on 31.08.2025.

36. However, placing reliance on clause (7) of **A.H. Forbes** (supra) Mr. Gandhi would contend that in case where right to seek renewal of lease is enforceable on the date of institution of suit for eviction by the lessor against the lessee, the position of lessee should be considered as if fresh lease deed as per renewal clause is in fact executed. The learned Advocate therefore contends that the suit filed by the plaintiff / landlord was not maintainable since the defendants had exhibited their readiness and willingness to obtain fresh lease deed by filing suit for specific performance. He contends that the suit, therefore, ought to have been dismissed.

37. As held above, the clause for renewal by itself does not result in renewal of the lease. Once the tenure of contractual lease has come to an end,

the landlord will have a right in institute a suit for eviction on statutory grounds enumerated in the MRC Act. The contention that the tenant is ready and willing to enforce the right of renewal and therefore, the suit for eviction must proceed as if lease is renewed is relating to merits of the matter and not maintainability of the suit. The suit will certainly be maintainable once contractual period of tenancy comes to an end. The entitlement to relief claimed is another matter. Without commenting much on the suit for specific performance, it must be stated that the suit is not decided as yet and is still pending before the learned Trial Court. At the same time, in the present case for eviction, the suits were decreed, appeals were dismissed, petitions filed by the tenant were partly allowed by quashing and setting aside the decree and remitting the appeals for fresh adjudication, the appeals have been dismissed after the remand against which the present petitions are filed. The initial tenure of 12 years expired on 31.08.2013. The subsequent tenure of 12 years has

also expired on 31.08.2025. The tenants continue to be in possession of the suit properties till the culmination of the tenure of lease even after renewal. This subsequent development cannot be ignored. The petitioners have placed reliance upon several decisions of the Hon'ble Supreme Court holding that subsequent developments which occur during pendency of proceedings for eviction on the ground of bonafide need under the Rent Act cannot be ignored and if the bonafide need does not subsist till the culmination of lis, decree for eviction can be interfered with on the basis of subsequent developments. This principle, in a given case should also enure to the benefit of the landlord. In the present case, even if the lease were to be renewed, the tenants will not be entitled to occupy the suit properties beyond 31.08.2025. The decree for eviction cannot be interfered with in view of the aforesaid development.

38. It will again be appropriate to refer to Judgment in **Champalal Jajoo** (supra). In the said

case while the suit was pending the subsequent tenure of lease, upon renewal as was claimed by the defendant / tenant had also come to an end. In that view of the matter it was held that defence raised based on the clause for renewal did not survive. Accordingly, it was held that the lessee was not entitled to continue in occupation of the property and the decree for eviction was upheld. This aspect has a striking similarity with the present case where, during pendency of the litigation for eviction, subsequent tenure of lease, upon renewal has also expired on 31.08.2025. The decree for eviction must therefore be upheld, if case for eviction under MRC Act is made out.

39. As regards the contention that the hearing of the suit for eviction should have been deferred till the adjudication of suit for specific performance of contract, the said argument cannot be accepted at this stage when the subsequent tenure of 12 years has also come to an end.

40. I am also in agreement with the argument of Mr. Samudra, the learned advocate for landlord that in the absence of any such prayer being made while the suit was pending, it will not be open for the tenants to raise such a contention for the first time before this Court in a writ petition. It was necessary for the tenants to move an appropriate application for stay of the suits for eviction or to seek consolidation of the suits for eviction with the suits for specific performance, if they deemed it appropriate. However, after having suffered a decree for eviction on the ground of bonafide need, it is now not open for the tenants to claim that hearing of the suit should have been deferred till adjudication of suit for specific performance.

41. The ratio of the judgment in the case of **Laxmidas Bapudas Darbar ..vs.. Rudravva and Ors.,** reported in **(2001) 7 SCC 409,** relied upon by Mr. Bhangde will not be applicable to the facts of the present case. In the said case during the subsistence of period of contractual lease, the landlord had

instituted a suit for eviction against the tenant on statutory grounds set out under the Karnataka Rent Control Act, 1961. The issue that fell for consideration was as to whether during subsistence of a contractual lease, suit for eviction on statutory grounds mentioned under the Rent Act was maintainable. The Hon'ble Supreme Court has held that such a right for seeking eviction on statutory grounds is not available during the tenure of a subsisting contractual lease in favour of the tenants. In the present case, the tenure of lease has come to an end on 31.08.2013. The suit for eviction is filed after the said term has come to an end. The facts of the present case are therefore clearly distinguishable. The said judgment is therefore not applicable in the facts of the present case. The suit which was instituted after the period of contractual tenancy came to an end was perfectly maintainable.

42. As regards the judgments in the case of **T.K. Lathika, Ishar Singh and Purushottam** (supra), relied upon by Mr. Bhangde, the ratio of all

these cases is that the issue of maintainability of suit is required to be decided as on the date of institution of the suit.

43. In the case of **T.K. Lathika** (supra) the plaintiff had acquired ownership over suit property on the basis of a gift deed dated 02.08.1980. The suit property was in possession of the tenant. The relevant tenancy Act provided that a landlord could not institute a suit for recovery of possession for a period of one year if the right to property was acquired under an instrument of transfer inter vivos. The suit for eviction was filed on 01.07.1981 i.e. before a period of one year had expired from the date on which the landlord acquired ownership by an inter vivos document of transfer of property i.e. gift deed. The Hon’ble Supreme Court held that the suit was not maintainable as on the date of institution and therefore the learned trial Court did not have jurisdiction to decide the suit on merits. It is held that the suit was liable to be dismissed on the very ground that it was filed before the period of one year

had expired.

44. In the case of **Ishar Singh** (supra), general legal principle that issue of maintainability of a suit is required to be decided with reference to the date of institution is reiterated.

45. In the case of **Purushottam** (supra), a suit arising out of contract was filed by an unregistered partnership firm. The partnership firm was registered while the suit was pending. Issue arose as to whether subsequent registration of firm would be sufficient to overcome the bar under Section 69(2) of the Partnership Act, 1932. The Hon'ble Supreme Court has held that since the institution of suit itself was defective in view of Section 69(2) of the Partnership Act, which prohibits institution of a suit with respect to contractual claims by an unregistered partnership firm, subsequent registration will not cure the defect.

46. With respect, ratios of none of these decisions will be applicable to the facts of the present case. The petitioners have not drawn attention to any provision under which the suit was barred or not

maintainable on the date of its institution. Contractual period of tenancy had expired on the date of institution of suit. There is no registered document of renewal of lease after the initial period of 12 years had expired. The argument of automatic renewal is legally unsound. The suit was therefore maintainable as on the date of institution. The contention that the suit was not maintainable is therefore liable to be rejected.

47. Having held so, it must also be stated that the status of defendants even after culmination of initial period of lease of 12 years continues to be that of tenants. During the initial period of 12 years the nature of tenancy was contractual tenancy and thereafter the status of defendants was of statutory tenants. The landlord cannot claim decree for eviction merely on the ground that tenure of lease came to an end on 31.08.2013 since protection of MRC Act is available to the tenants. It is, therefore, necessary to examine as to whether case of bonafide need, on which basis decree for eviction is sought is

made out by the landlord.

48. As regards the issue of bonafide need, the landlord has made a disclosure of the properties held by him in the plaint. The suit was initially decreed by the learned trial Court holding that the suit property was the only property available to satisfy the need of starting restaurant set up by the plaintiff. After the suit was decreed, some properties held by the plaintiff with other co-owners were vacated. Some of these properties are also let out to other tenants after the earlier tenants had vacated the same. It is not in dispute that the other properties which are vacated by the tenants during pendency of the litigation are not absolute properties of the plaintiff. All these properties are jointly held by the plaintiff with other family members as a co-owner.

49. Mr. Gandhi argued that the plaintiff has failed to make out any case of bonafide need. He contends that the alleged need is merely a desire. Drawing attention to the plaint, Mr. Gandhi argued that the plaintiff intends to start a business for

himself only in order to earn a name.

50. Mr. Gandhi, the learned advocate has placed reliance on several judgments of the Hon'ble Supreme Court to contend that subsequent developments which have arisen during pendency of the litigation i.e. vacation of shops by tenants of different properties held by the plaintiff is a relevant consideration for deciding the issue of bonafide need. The contention of Mr. Gandhi is that eviction of properties held by other tenants satisfies the need of the plaintiff and that the properties so vacated could be utilized for satisfying the need.

51. Mr. Bhangde the learned Senior Advocate places reliance on judgment of the Hon'ble Supreme Court in the case of **Sriram Pasricha ..vs.. Jagannath and others**, reported in **(1976) 4 SCC 184**, to contend that a co-owner is as much an owner of the entire property as any sole owner of the said property and that jurisprudentially it is not correct to say that co-owner of property is not its owner. Placing reliance on the said decision, the learned

Senior Advocate argues that the plaintiff could have satisfied his alleged need by utilizing the properties admittedly held by him with other family members. He contends that the contention that the plaintiff is not absolute owner of the property and therefore cannot utilize the same in order to satisfy his need is liable to be rejected in view of the said judgment. The judgment of Hon'ble Supreme Court in the case of **Super Forgings and Stells (Sales) Pvt. Ltd. ..vs.. Thyabally Rasuljee (Dead) through Lrs**, reported in **(1995) 1 SCC 410** to contend that property held by landlord as a co-owner is required to be treated as his own property for deciding the suit for eviction on the ground of personal need of standing business.

52. *Per contra*, Mr. Samudra, paces reliance on judgments of the Hon'ble Supreme Court in the cases of **John Mathai Abrraham ..vs.. British Physical Laboratory India Ltd.**, reported in **(2001) 9 SCC 692**, and **Lingala Kondala Rao ..vs.. Vootukuri Narayan Rao**, reported in **(2003) 1 SCC 672**, to

argue that merely because a landlord is co-owner of other properties, cannot be a ground to dismiss his suit for eviction filed on basis of bonafide need with respect to property absolutely held by him.

53. The pleading with respect to bonafide need is required to be considered by reading the plaint meaningfully. Perusal of the plaint will indicate that the plaintiff has stated that his income is derived from agricultural lands owned by the family and from rental income. The plaintiff does not have any business of his own. The plaintiff is entitled to do business, although he may come from an affluent background and may well be able to survive without doing any business or work. The contention that the need canvassed by the plaintiff for starting business from the suit property is not a need but a desire cannot be accepted.

54. The ratio of **Sriram Pasricha** (supra) relied upon by Mr. Bhangde cannot be applied to the present case. In the said case, the issue before the Hon’ble Supreme Court was as to whether a co-

owner can institute a suit for eviction against the tenants. In the said case, the defendant had raised an objection that the suit was not maintainable since the plaintiff was not the sole owner. In this context, the Hon'ble Supreme Court has held that a co-owner of a property is a full owner and a suit for eviction filed by him against the tenant on the ground of arrears of rent and personal need is maintainable.

55. In the present case, the landlord has instituted a suit for eviction with respect to the suit property which is absolutely owned by him. The case of bonafide need is opposed on the ground that other properties held by the landlord as co-owner are available to satisfy the need. The issue is not as to whether a landlord who is a co-owner can institute suit for eviction against the tenant like in the case of **Sriram Pasricha** (supra). The principle that landlord is the best judge of his need and neither the tenant nor the Court can dictate as to how and against which particular property, out of several properties held by him, he should satisfy his need, will apply

with more vigour in the present set of facts where the other properties as held by the landlord merely as a co-owner as against the suit properties which are absolutely owned by him.

56. As regards judgment in the case of **Super Forgings** (supra), in the said case, the relevant Rent Act provided that a landlord would be disentitled from seeking eviction, if he or any of his family member owns or occupies any non-residential building in the city for carrying out the business for which decree of eviction was sought. The issue before the Hon’ble Supreme Court was as to whether a co-owner of a non-residential building in the city which was utilized for carrying out business could be treated as owner of the property to disentitle him to institute suit for eviction with respect to a non-residential building. It is while interpreting this provision, the Hon’ble Supreme Court has held that the owner of property will include a co-owner. It was therefore held that suit for eviction filed by owner with respect to non-residential building was not

maintainable since he was holding another non-residential building for the business purpose albeit only as a co-owner. The ratio of the said case is also clearly distinguishable and is not applicable to the facts of the present case.

57. The issue in the present case is as to whether suit for eviction filed by landlord on the ground of bonafide need with respect to property absolutely held by him is liable to be dismissed since he is co-owner of some other properties alongwith other individuals. The answer to the question has to be in favour of the landlord. The landlord cannot start business over a property held by him merely as a co-owner without the consent of the said co-owners. The evidence on record will indicate that the properties, which according to the defendants/tenants can be utilized for satisfying the need was let out by all the co-owners for earning rent. It is therefore that even after some of the tenants vacated their properties the same were let out by all the co-owners including the present plaintiff.

58. The properties which are vacated are joint properties of the plaintiff. The plaintiff cannot use the said properties for his exclusive business purpose without consent of other co-owners. All the co-owners are earning rent from the properties which according to the defendants can be utilized for satisfying the need of the plaintiff.

59. In the considered opinion of this Court, the ratio in the cases of **John Mathai Abrraham** and **Lingala Kondala Rao** (supra) which hold that merely because the landlord is also co-owner of some other properties cannot be a ground to defeat suit for eviction on the ground of bonafide need with respect to property fully owned by him, will be squarely applicable to the facts of the present case. The findings with respect to bonafide need cannot be disturbed on the ground that other properties held by the plaintiff as co-owner were available to satisfy the need. As held above, the ratio of **John Mathai Abbraham** and **Lingala Kondala Rao** (supra) squarely covers the issue in favour of the

respondent/landlord. Relevant portion in the case of **John Mathai Abbraham** (supra) is reproduced herein-below for ready reference :

> “7.....Nothing has been placed on record to show that the appellant has become the sole owner of that building in which he and his stepmother are living. At the best the appellant might be having a share in it. Merely because the appellant is living in a room of the huge building which does not exclusively belong to him, it cannot be said that his requirement to occupy the premises for his residence and professional requirements is not reasonable and bona fide.....

Relevant portion in the case of **Lingala Kondala Rao (supra)** is reproduced herein-below for ready reference :

> “10. We hold that joint Hindu family premises in which joint family business is being run and wherein the landlord too has a share and interest and juridical possession on account of being a member of the family would not disentitle the landlord from seeking recovery of possession from the tenant of a non-residential building exclusively owned by him subject to his satisfying other requirements of Section 10(3)(a)(iii).”

60. Perusal of plaint and evidence of landlord will demonstrate that he has made disclosure of these properties in the plaint. The learned trial Court has also recorded findings regarding disclosure of the properties by the plaintiff.

61. It must also be mentioned that in case where the landlord does not disclose particulars of all the properties held by him in a suit for eviction and yet relevant material in that regard is brought before the Court by the tenant and is considered by the Court before passing a decree for eviction on the ground of bonafide need, suppression by itself cannot be a ground to set aside decree for eviction. The said legal position is clarified by the Hon’ble Supreme Court in the cases of **M L Prabhakar ..vs.. Rajiv Singal**, reported in **(2001) 2 SCC 355** and **Ram Narain Arora ..vs.. Asha Rani and others**, reported in **(1999) 1 SCC 141** and judgment of this Court in the case of **Kondeo Savalaram Panse ..vs.. Digambar Ramrao Pai and others**, reported in

(2001) 4 BCR 267.

62. In the present case also, even if the relevant facts with respect to all the properties held by the petitioner as co-owner and the subsequent events such as vacation of some properties held by him as co-owner and also letting of some of the properties again after the same being vacated, are brought on record by the defendants, considering the entire evidence on record, the learned Appellate Court has confirmed the decree for eviction passed in favour of the plaintiff. In the opinion of this Court, the findings recorded by the learned Appellate Court are proper and do not warrant any interference. The findings are based on appreciation of evidence on record. It must be stated that in view of clear exposition of law in the cases of **John Mathai Abrraham** and **Lingala Kondala Rao**, merely because properties held as co-owner are available would not be a ground to set aside decree for eviction passed with respect to a property exclusively owned by the plaintiff.

63. It will now be appropriate to deal with the

issue of comparative hardship. It must also be stated that the defendants have themselves not come out clean with complete disclosure of relevant facts. The defendant No.1/tenant in Writ Petition No.3044 of 2024 has purchased a similar shop block in the vicinity of the suit property. Sale deed with respect to the said shop was proved and exhibited as Exhibit 72. The defendant/tenant in Writ Petition No.3044 of 2024 can conveniently move his business to the said shop. Likewise, the father of defendant No.1/tenant in Writ Petition No.2499 of 2024 has instituted a suit for eviction against a tenant in occupation of a shop premises in Itwari, Nagpur on the ground of bonafide need for starting business for defendant No.1. The said suit is decreed in favour of father of defendant/tenant and appeal against the said decree is also dismissed. Itwari is a very prominent business locality in Nagpur city. The issue of comparative hardship in both the cases is therefore required to be answered in favour of the plaintiff/landlord and against the defendants/tenants.

64. Likewise, in both these cases, the defendants did not contend or prove that despite due efforts, they were not able to acquire appropriate alternate premises in the locality. As has been repeatedly held by this Court in a catena of decisions, in a suit for eviction on the ground of need, the tenant must prove that despite sincere efforts to look for alternate premises upon institution of suit on the ground of bonafide need, he could not secure alternate premises and unless such fact is proved by the tenant, the issue of comparative hardship must be answered in favour of the landlord. Reference in this regard can be made to Judgment of this Court in the cases of **Yogesh Dattaram Pathak Vs. Shrikrishna Shriram Joshi,** reported in **2003 (3) Mh.L.J 684, (paragraph 12)** and **Parashram Tuljaram Belhekar (since deceased) through LRs Vatsalabai W/o Parashram Belhekar & Ors. Vs. Tejmal @ Kankamal Mulchand Jain (since deceased) through legal heirs Shantabai Kankamal Changedia & Ors.,** reported in **2007(2)**

Mh.L.J. 610 (paragraph 21).

65. In the present case, apart from the fact that such evidence is not led, more importantly, in case of tenant in Writ Petition No.3044 of 2024, availability of almost similar shop in the vicinity of the suit property is duly proved and as regards tenant in Writ Petition No.2499 of 2024, it is proved that suit for eviction filed on the ground of bonafide need by the father of defendant No.1 on the ground that the property is needed for business of defendant No.1 is decreed. The issue of comparative hardship in both the cases is therefore required to be answered in favour of the plaintiff/landlord.

66. A contention is raised by the learned advocate that after allowing the application for amendment of written statement, the learned Appellate Court ought to have allowed the application for permission to lead additional evidence. The said contention cannot be accepted since the amendment in the written statement is pertaining to subsequent developments of certain

tenants vacating premises owned by the landlord as a co-owner with other family members and also letting out of some of the properties vacated by the landlord along with other co-owners. The amended pleadings relating to subsequent developments have been taken into consideration by the learned First Appellate Court. These facts are not in dispute. The argument is technical in nature and not one of substance. In both the cases, no contention was canvassed with respect to any resultant prejudice on this count. There is no question of prejudice because the subsequent developments pleaded have been taken into consideration by the learned Appellate Court. It is well settled that this Court while exercising its extraordinary writ jurisdiction or even supervisory jurisdiction cannot interfere with orders impugned merely on technical errors of procedure unless the same causes prejudice. In the absence of any prejudice being demonstrated, the decree for eviction cannot be interfered with on the ground that further evidence was not recorded after application

for amendment was allowed.

67. As regards the effect of pending civil suits for specific performance of contract the contention of the learned advocate for petitioners that the suit for eviction should have been stayed or at least that execution of the decree should have been directed to be deferred till adjudication of suits for specific performance filed by them, as recorded above cannot be accepted since such a request was not made before the learned trial Court.

68. Apart from this, it must be stated that clause 3 of the lease deed merely confers a right to seek renewal. The clause by itself does not result in renewal of the lease. The petitioners/tenants therefore do not have a vested right as a contractual lessees in terms of clause 3. The learned advocate for the respondent/landlord has placed reliance on judgments of the Delhi High Court and Karnataka High Court dealing with situations where pending suit for specific performance of agreement of sale filed by the tenant, the landlord had instituted proceedings

for eviction. The Delhi High Court has in the case of **Jai Singh Rana** (supra) held that in such a situation, the Civil Court before whom the suit for specific performance of contract is pending may pass appropriate order granting a stay to rent control proceedings or granting stay to execution of order/decree to be passed in rent control proceedings. It is further held that in the event the proceedings are not stayed and after the decree for eviction is executed and the tenant succeeds in the suit, the decree for specific performance can be executed by restoring possession of the property to the tenant in execution of decree for specific performance.

69. The Karnataka High Court has in the case of **M. Chidambaram** (supra) held that the subject matter of suit for specific performance and eviction proceeding is distinct and independent of each other. It is held that in the event the tenant is required to vacate the property on account of decree in suit for eviction, the suit for specific performance can always

be amended to seek relief of possession. The cause of action and grounds for adjudication in both the proceedings are different. It is also held that agreement of sale by itself does not confer any right. It is therefore held that attempt by tenant to defer adjudication of eviction proceedings on the ground that suit for specific performance of contract of sale is pending must not be encouraged. The Court has held that agreement of sale does not confer any right in the property and merely creates a personal right to seek enforcement of agreement. It is therefore held that prayer for grant of stay to eviction proceedings or for clubbing the same with the eviction proceedings should not normally be granted.

70. The Delhi High Court has referred to earlier decisions of different High Courts in the case of **Sunil Kapoor** (supra), where prayer for stay of eviction suit was rejected on the ground that suit for specific performance of agreement of sale was pending.

71. Mr. Samudra, the learned advocate for landlord contends that the argument that the suit for

eviction should not have been allowed to proceed in view of the pendency of suit for specific performance is therefore liable to be rejected.

72. Mr. Bhangde, however, counters the contention by trying to distinguish the judgments on the ground that the said judgments deal with an agreement for sale of immovable property and not agreement for renewal of lease. He argues that the same parameters cannot be made applicable to a case of agreement of lease where the lessee/tenant is in possession of the suit property and institutes a suit for specific performance to enforce the clause for renewal of lease in the agreement.

73. In the considered opinion of this Court, just like an agreement of sale does not by itself confer any right over the property, an agreement for renewal of lease by itself will also not confer a right to hold the property as a contractual lessee by itself. After the tenure of lease comes to an end the tenant shall occupy the tenanted premises as a statutory tenant and not as a contractual tenant. In the

present case, the initial tenure of lease had expired. The status of contractual tenant came to an end with expiry of lease. The tenant thereafter assumed status of statutory tenant since protection of Rent Act is available. The landlord instituted a suit for eviction invoking a statutory ground for eviction under the Rent Act. Unless the tenant has a vested right in the property, right of landlord to seek eviction which is a statutory right, cannot be denied merely on the ground that suit for specific performance is pending. Moreover, since prayer for clubbing of the suits or even stay of suit was not made while the suit for eviction was pending the same cannot be now entertained.

74. Apart from this, there is a subsequent development that even the subsequent tenure of 12 years commencing from 01.09.2013 has now come to an end on 31.08.2025. The suit for specific performance is still pending before the learned trial Court.

75. In the factual backdrop of this case, it will be most inequitable and unjust to defer the execution of decree for eviction merely on the ground that suit for specific performance of the lease deed is pending.

76. In the light of reasons recorded above no case for interference is made out. Writ Petitions are therefore dismissed with no orders as to costs.

(ROHIT W. JOSHI, J.)

C.L. Dhakate

WRIT PETITION NO.2499 OF 2024

77. At this stage, learned advocate for the petitioners makes a request to continue the interim order dated 15.04.2024 for a period of eight weeks in order to enable the petitioners to approach the Hon'ble Supreme Court.

78. Learned advocate for the respondent – landlord vehemently opposes the request. Having regard to the fact that the interim order is operating

since 15.04.2024, although the petition is dismissed, the interim order is extended for a period of eight weeks from today as prayed.

WRIT PETITION NO.3044 OF 2024

79. At this stage, Mr. Gandhi, learned advocate, makes a request to grant time of around one and a half years for vacating the suit property.

80. Mr. Samudra, learned advocate for the respondent – landlord states that the petitioners have purchased a similar shop block in the vicinity of the tenanted premises and, as such, there is no propriety in seeking further period for vacating the suit property and that too a period of one and a half years. The request for grant of 18 months time to vacate the suit property is unreasonable. However, having regard to the fact that the petitioners are doing their business from the suit property, time up to 31.03.2027 is granted for vacating the suit property.

81. The period is extended subject to the condition that both the petitioners shall file an

undertaking on affidavit with this Court that the suit property will be vacated and vacant possession thereof will be delivered to the respondent – landlord positively on or before **31.03.2027.** Such undertaking be filed on or before **15.10.2026.** In the event, the undertaking is not filed before 15.10.2026, the decree shall become enforceable with effect from 16.10.2026. Request for further extension of time will not be entertained.

(ROHIT W. JOSHI, J.)

C.L. Dhakate

Signed by: Mr. C.L. Dhakate
Designation: PA To Honourable Judge
Date: 30/09/2026 17:34:33