

**(2006) 12 BOM CK 0013**  
**In the Bombay High Court**  
**Case No : W. P. No. 802 of 1990**

Parashram Tuljaram Belhekar since deceased through his LRs. Vatsalabai Belhekar and others APPELLANT

Vs

Tejmal @ Kankamal Mulchand Jain deceased by his legal heirs Shantabai Kankamal Changedia and others RESPONDENT

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**Date of Decision :** 07-12-2006

**Acts Referred:**

Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 — Section 13(1)(g), 13(1)(g)(ii), 13(2), 13(g)(ii), 5(11)(c)(ii)  
Constitution of India, 1950 — Article 227

**Citation :** (2006) 12 BOM CK 0013

**Hon'ble Judges :** V.R. Kingaonkar, J

**Bench :** Single Bench

**Advocate :** V.S. Bedre, for the Appellant; V.J. Dixit for respondents No. 1A, 1E, 1F, 1G holding for S.B. Pallod, for the Respondent

**Final Decision :** Allowed

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## Judgement

V.R. Kingaonkar, J.—An eviction suit was filed by the petitioner which came to be dismissed. Though various issues were raised, yet the trial Court did not address itself to all the issues on merits. The dismissal was ordered only on a finding over single issue, holding that dismissal or earlier suit operated as res judicata and, hence, finding on other issues were not required to be rendered. An appeal carried by the petitioner was also dismissed. The Appellate Court, however, held that the dismissal of the previous suit did not operate as res judicata. The Appellate Court gave findings in favour of the landlord particularly, on material issue of his reasonable and bona fide requirement of the suit premises for his own use. The Appellate Court, however, held that greater hardship would be caused to the tenant by passing eviction decree. Consequently, the appeal was dismissed. The deceased petitioner-landlord impugned both the judgments vide the instant petition.

2. Original petitioner Parashram was the landlord/plaintiff. He demised during

pendency of the instant petition. His legal representatives are taken on record and are the present petitioners. Original defendant Tejmal @ Kanakmal was the tenant. He died during pendency of the appeal. In his stead present respondents were brought on record as his legal representatives.

3. The dispute relates to a small shop of 10 x 12 ft. area, on ground floor of house property bearing C.T.S. No. 983 (M. H. No. 2607), situated at Ahmednagar. The agreed rent is Rs. 20/- p.m. The shop was being used for vending herbal products, pickles and like home made food products. The deceased tenant was also engaged in prescribing Ayurvedic medicines to his customers. The deceased landlord was an employee of Municipal Council. The deceased landlord had filed a suit (R.C.S. No. 187/1967) for eviction on the ground that the suit premises were required for his personal and bona fide use. That suit was dismissed by the trial Court for the reason that the deceased landlord wanted the suit premises for his own business after retirement but then he was still in service and had much service period left for superannuation. The suit shop is adjacent to the staircase of the first floor of the same house where the landlord resided and now his legal representatives reside.

4. The landlord filed the suit (R.C.S. No. 594/1976) for eviction on the ground that the tenant had committed wilful default in payment of the rent. He further pleaded that he bonafidely required the suit shop to start Stationery and General store after the retirement from Municipal service. He averred that it would be difficult for him to manage the family expenses with meagre pension. He had then recently retired and was having schooling children. According to him, the tenant might secure alternative accommodation elsewhere. The suit shop was most convenient for his business because it is adjacent to the staircase of the first floor and hence, it was easy for him to have egress and ingress to the shop from his residential premises. He alleged that the comparative hardship would be caused to him if the eviction decree was not granted, whereas the tenant could manage to secure some other premises. The tenant denied all the material averments made by the landlord. The tenant alleged that the suit shop is inconveniently situated and was not much useful for proposed business of the landlord. He denied that the landlord required the suit shop for bona fide and personal use. His case was that he had earned goodwill for his business and there was paucity of premises in the township. He alleged, therefore, that he would suffer grater hardship as compared to that of the landlord. He further submitted that he was financially weak as compared to the landlord. He raised objection to the maintainability of the suit on the ground that the previous decree of dismissal in respect of the suit for eviction (R.C.S. No. 187/67) would operate as res judicata and the same issue cannot be retried. He denied that he was a wilful defaulter.

5. The issue regarding defaults in the payment of agreed rent was not pressed into service before the Appellate Court. The only material issue pressed into service before the Appellate Court was that of reasonable and bona fide

requirement of the landlord for possession of the shop for his own use. As stated earlier, the Appellate Court answered the said material issue in favour of the landlord. The appeal came to be dismissed only because the Appellate Court reached conclusion that greater hardship would be caused to the legal representatives of the deceased tenant by passing eviction decree. The deceased landlord was dissatisfied with such finding and hence, preferred the instant petition.

6. Heard learned counsel for the parties. I have carefully perused the record and proceedings of both the Courts.

7. Mr. Bedre, learned advocate appearing for the petitioners would submit that the Appellate Court committed serious error while deciding the issue of grater hardship. The learned advocate would submit that the Appellate Court ought to have considered comparative hardship on the basis of the available circumstances and the subsequent developments. He would point out that the legal representatives of the deceased tenant did not produce any evidence to show that any of them is using the suit shop for the business purpose. He would submit that once the bona fide and reasonable requirement of the landlord is duly proved, unless there are mitigating circumstances to hold that comparative hardship of more degree will be to the legal representatives of the tenant, the eviction decree should have been passed. Per contra, learned Senior counsel Mr. Dixit, would submit that unless the landlord had amended his pleadings after the death of the tenant, there was no occasion for the legal representatives to meet out any case regarding grater hardship. He further contended that, originally, in the plaint the claim of the landlord was restricted to his own use of the suit shop for starting a stationery and cutlery business and after the demise of the landlord the continuation of such requirement is not brought on surface of the record by making suitable amendment in the pleadings and hence, the dismissal of the suit is proper. He would submit that cognizance of the subsequent events cannot be taken by the Court without proper pleadings. He contended that the legal representatives of the deceased tenant could not be taken by surprise and hence the view taken by the Appellate Court is quite legal and proper.

8. Before I proceed to consider the rival submissions, let it be noted that the tenant - Tejmal @ Chain-mall died during pendency of the appeal, on 28-9-1988. His legal representatives, who are present respondents, were taken on record on 31-10-1988. The Appellate Court rendered the impugned judgment on 6-9-1989. The legal representatives of the deceased tenant did not file any application for amendment of the pleadings in the written statement. The question of comparative hardship was considered by the Appellate Court only on the basis of oral submissions across the Bar. The learned Appellate Court held that after the death of the tenant the landlord did not carry out amendment in the plaint and hence, the issue of comparative hardship could not be decided in his favour on the basis of the assumption that the widow of the deceased tenant would not require the suit shop.

9. To clear the deck, it may be first considered whether the issue of personal and bona fide requirement of the landlord is required to be redetermined on account of the death of the landlord. Mr. Dixit, learned senior counsel for the respondents would submit that originally the pleadings of the deceased landlord indicated his requirement for commencement of the Stationery and Cutlery business but after his death, without amendment of the pleadings, such requirement cannot be presumed to have continued and existing. He seeks to rely on *Chanchalben Shah and Others Vs. Municipal Corporation of Greater Mumbai and Another*, and *The State of Maharashtra Vs. Vithal alias Balu Narayan Patale and others*, . In case of *Chanchalben wd/o Dharshi Shah and others vs. Municipal Corporation of Greater Mumbai (supra)* a Single Bench of this Court held that the subsequent events can be brought on record to plead additional ground by way of amendment to the eviction application. In *Hindustan Petroleum Corporation Ltd. vs. Gulamabbas Esoofali Karachiwala and others (supra)* a Single Bench of this Court has held that the provisions of the CPC are applicable to the proceedings before the Courts under the Bombay Rent Act. The learned Single Bench of this Court has held that where evidence was led on matters which were not pleaded then the decree for eviction, which was granted on ground of bona fide requirement to the landlord, was liable to be set aside. The Appellate Court in that case had found that particulars of the claim were not disclosed in the plaint filed by landlord. The Appellate Court, however, had held that the personal and bona fide requirement of the landlord was proved on account of the correspondence between the parties and the evidence on record which was adduced by the parties. Mr. Dixit, learned senior counsel appearing for the respondents, heavily relied to *Om Prakash Gupta Vs. Ranbir B. Goyal*, . The Apex Court held in the given case that the subsequent events founded on facts could be relied on only on the basis of amendment of the pleadings. The subsequent events which required determination of disputed question ought to be pleaded by way of amendment before they are considered by the trial Court or the Appellate Court is the consistent view.

10. There cannot be duality of the opinion that landlord tenant litigation is a living kind of dispute until it reaches the logical end. There are fluctuations caused due to intervening changes in the circumstances. The subsequent events may change the original positions of the parties qua each other. The question of bona fide requirement is to be addressed, however, having regard to the juxtaposition which existed as on the date of filing the eviction suit.

11. The clinching question is as to whether the death of the landlord did extinguish his personal and bona fide requirement. One cannot be oblivious of the fact that the landlord was alive until the Appellate Court decided against him. He died during pendency of the present petition. Therefore, it was not a subsequent event to be taken note of by the Appellate Court. The appeal is continuation of the suit but not the writ petition. It is well settled that the provisions of the CPC are not applicable to the proceedings before the High Court in *stricto-sensu*. The subsequent events could be brought on record by way of

affidavits. That apart, on perusal of the plaint, it is explicit that the deceased landlord pleaded that he wanted to start a Stationery and General Store in the suit shop. He pleaded that his two children were schooling at the relevant time and his monthly pension was meagre to meet the family expenditure. The averments in the plaint do not show that he wanted to start such business exclusively for himself and not for the benefit of the family members. His statement was recorded after about 5 years and then he narrated about his bona fide requirement for the suit shop. His statement was thus :

"My son is appearing for S.S.C. in October. He is not inclined to education. He wants to start business. So, we both want to start shop of Stationery and Cutlery."

The pleadings of the landlord would show that the requirement for the suit shop was spelt out. There is no substance in the argument that the landlord had improvised the case of personal and bona fide requirement in respect of his son, without subsequent amendment. In fact, such amendment was not necessary since until his demise, the landlord was in the need of the suit shop. He wanted to start the business for himself and for the son because his son had no much aptitude for further studies. The evidence of the landlord was properly appreciated by the Appellate Court. The finding of fact as reached by the Appellate Court need not be disturbed by this Court in the exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

12. In Pratap Rai Tanwani and Another Vs. Uttam Chand and Another, , the Apex Court held that bona fide requirement of landlord as on the date of petition is the crucial factor. The Apex Court further held that it is pernicious unjust to shut the door before the applicant just on the eve of his reaching the finale after passing through all the previous levels of litigation merely on the ground that certain developments occurred pendente lite, because the opposite party succeeded in prolonging the matter for such unduly long period. The Apex Court held that words "bona fide requirement" would mean honest desire in contradistinction with a mere pretence or pretext to evict a tenant. It refers to a state of mind prevailing with the landlord. The Apex Court has observed :

"The only way of peeping into the mind of the landlord is an exercise undertaken by the judge of facts by placing himself in the armchair of the landlord and then posing a question to himself-whether in the given facts, substantiated by the landlord, the need to occupy the premises can be said to be natural, real, sincere, honest. If the answer be in the positive, the need is bona fide. "

13. The ratio of the above authority is squarely applicable to the present case. The need of the landlord as on the date of the eviction suit is most relevant. The subsequent events could be taken into account upto stage of the Appellate Court. Moreover, the nature of such subsequent events, if are such as to totally eclipse the need of the landlord and his family members then only it is necessary to mould the relief on the basis of such events. All along the landlord expressed his

honest and sincere wish to start business for himself and the son, after taking over the suit shop, and had also spared some capital amount for such purpose. The Appellate Court duly analysed the relevant facts and circumstances. The finding of the Appellate Court, in this context, cannot be termed as perverse and hence, does not warrant interference in exercise of jurisdiction under Article 227 of the Constitution of India by this Court.

14. Mr. Bedre, learned counsel appearing for the petitioners, seek to rely on *Joginder Pal vs. Naval Kishore Behal*, 2002 Bom.R.C. 411. The Apex Court, while dealing with the provisions of section 13(3)(a)(ii)(a) of the East Punjab Urban Rent Restriction Act, 1949 took survey of a catena of decisions on the question of personal and bona fide requirement. The relevant conclusions of the Apex Court are stated in para 33 of its judgment. They are :

"33. Our conclusions are crystallised as under;

(i) the words for his own use" as occurring in section 13(3)(a)(ii) of the East Punjab Urban Rent Restriction Act, 1949 must receive a wide, liberal and useful meaning rather than a strict or narrow construction.

(ii) The expression-landlord requires for "his own use", is not confined in its meaning to actual physical user by the landlord personally. The requirement not only of the landlord personally. The requirement not only of the landlord himself but also of the normal "emanations" of the landlord is included therein. All the cases and circumstances in which actual physical occupation or user by someone else, would amount to occupation or user by the landlord himself, cannot be exhaustively enumerated. It will depend on a variety of factors such as inter-relationship and interdependence-economic or otherwise, between the landlord and such person in the background of social, socio-religious and local customs and obligations of the society or region to which they belong.

(iii) The tests to be applied are : (i) whether the requirement pleaded and provided may properly be regarded as the landlord's own requirement? and, (ii) whether on the facts and in the circumstances of a given case actual occupation and user by a person other than the landlord would be deemed by the landlord as "his own" occupation or user? The answer would, in its turn, depend on (i) the nature and degree of relationship and/or dependence between the landlord pleading the requirement as "his own" and the person who would actually use the premises; (ii) the circumstances in which the claim arises and is put forward, and (i) the intrinsic tenability of the claim. The Court on being satisfied on the reasonability and genuineness of claim, as distinguished from a mere ruse to get rid of the tenant, will uphold the landlord's claim.

(iv) While casting its judicial verdict, the Court shall adopt a practical and meaningful approach guided by the realities of life.

(v) In the present case, the requirement of landlord of the suit premises for user as office of his chartered accountant son is the requirement of landlord for his

own use" within the meaning of section 13(3)(a)(ii)."

15. Mr. Bedre, learned counsel appearing for the petitioners, also referred to Anil P. Bansal and another vs. Central Bank of India, 2003 Bom.R.C. 441 and Balwant P. Doshi vs. Shantaben Dhirajlal Shah and another, 2002 Bom.R.C. 516. In both the given cases a Single Bench of this Court held that the Courts cannot ordinarily doubt the bona fide need of the landlord nor the Courts can indicate to the landlord as to how the premises owned by him should be used. This Court then proceeded to observe that it is not necessary for the landlord to establish the dire necessity but it is enough to show that some need exists. In Balwant P. Doshi (supra) this Court further held that onus is on the defendant to establish that the defendant will not be able to secure any alternate premises in the same locality or in any other part of the city.

16. The landlord not only spelt out his personal and bona fide requirement in his testimony but also adduced evidence of his son P.W. 2 Kashinath. His son stated that he and his father intended to start the joint business of stationery article. Nothing of much significance could be elicited from cross-examination of the landlord and his son so as to raise serious doubt regarding the bona fide and personal requirement of the suit shop by them. Under these circumstances, I am inclined to hold that the finding of the Appellate Court on the issue of personal and bona fide requirement of the landlord is legal and proper within the meaning of section 13(1)(g) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (for short, the Bombay Rent Act).

17. Two further significant points would arise for determination. They are :

(i) Whether the Appellate Court properly approached the issue regarding comparative hardship u/s 13(1)(g)(ii) of the Bombay Rent Act and its finding thereon can be upheld ?

(ii) Whether the respondents, being legal representatives of the deceased tenant, can claim any protection within the meaning of section 5(11)(c)(ii) of the Bombay Rent Act.

18. As far as the question of comparative hardship is concerned, it is worthy to be noted that the deceased tenant did not dispute the fact that the landlord had no other premises of starting of his business. The written statement filed by the deceased tenant would show that there was simple denial to the averments made by the landlord in the context of issue of comparative hardship. The tenant pleaded that there was paucity of the commercial premises and that he had earned goodwill of his business in the suit shop. He admitted, unequivocally, that he has two sons, one of them is a medical practitioner at Pune and another is doing business at Ichalkaranji. He stated that he had no financial concern with his two sons. His four daughters have been married. He further stated that he had no other source of income except the business and that since about 25 years he was occupying the suit shop which had created a goodwill in his favour. He explained that suitable premises were not available to shift his business. He

admitted that the landlord was a Municipal clerk and retired from the service. His testimony would show that he did not make serious efforts to search for alternative accommodation. His cross-examination discloses that he had vacated the residential premises situated at King Gate. He did not try to secure accommodation in the Municipal building though shops were available.

19. While assessing comparative hardship, the learned Appellate Court should have considered the fact that the landlord had retired as Municipal Clerk and was having moral duty to establish his son in some kind of business. The moral obligation of the landlord was comparatively of higher degree because the tenant had discharged his moral obligations in view of the fact that both his sons were well placed and financially well to do. As stated before, the tenant was not alive when the Appellate Court decided the appeal. There was absolutely nothing on record to show that the widow of the deceased tenant had continued the business. It may be reiterated that the legal representatives of the tenant had not filed any application for making out additional grounds in respect of issue of greater hardship. They did not raise any plea about greater hardship which was likely to be caused to them as compared to that of the landlord in case of passing the decree for eviction. The burden is on the tenant to plead and prove that comparative hardship will be more to him in case of passing the decree for eviction. The learned District Judge appears to have wrongly assumed that the burden of the proof was on the landlord. The relevant observations of the Appellate Court are thus:

"But in order to establish that aspect, in my opinion, the plaintiff should have elaborated further as to how according to him the defendant would not be put to any hardship unless that is done it would not be possible for the defendant to come with the case to meet aspect or contention raised by the plaintiff in that respect. In the written statement defendant has stated that he runs business in the suit premises and whole family is dependent on him. He further claims that he has gained goodwill at the site where he is running business and in the event of he is required to vacate it, he would be put to greater hardship. I would say that the written statement also lacks enough details to as elaborate the case as to how the defendant would be put to hardship in the event of eviction decree against him. However, the matter would not be solely depend on the pleadings and the point will have to be considered in the light of circumstances brought before the Court. It is because, ultimately it is the duty of the Court, as well to ascertain to whom greater hardship would be caused in the event of passing decree than by refusing to pass it."

20. In case of *Badrinarayan Chunilal Bhutada vs. Govindram Ramgopal Mundada*, 2003 Bom.R.C. 45, the Apex Court considered the provisions of section 13(g)(ii) of the Bombay Rent Act. The Apex Court held that the burden of proving availability of grounds u/s 13(2) of the Act is on the tenant. It is further observed that the parties are expected to raise necessary pleadings and the Court to frame issue based on the pleadings so as to enable parties to adduce evidence and

bring on record such relevant material as would enable the Court forming an opinion on the issue as to comparative hardship and consistently with such finding whether a partial eviction would meet the ends of justice. Even if no issue has been framed, the Court may discharge its duty by taking into consideration such material as may be available on record. The Apex Court proceeded further to observe :

"11.. The Act does not lay down any guidelines or relevant factors based whereon the question of comparative hardship is to be decided. A slight indication is given in the first para of section 13(2) that regard must be had to (i) all the circumstances of the case, (ii) including the question whether other reasonable accommodation is available for the landlord or the tenant. The expression "other reasonable accommodation" as employed here does not mean an accommodation suitable in all respects as the suit accommodation is. The Legislature has chosen it appropriate to leave the determination of issue on sound discretion of the Court. "

21. In the context, the consistent view of the Bombay High Court is that once the landlord proceeds to initiate a suit on the ground of bona fide requirement, the tenant is expected to start looking for alternative premises and to explain as to why he was unsuccessful in securing such accommodation. In case of *Suhasini Atmaram Parab and others vs. B. H. Khatu and others*, 2003 Bom.R.C. 313 a Single Bench of this Court has reiterated the same view by taking survey of the case law on the point. The tenant did not elaborate his efforts regarding steps taken to search for alternative accommodation. He failed to discharge the burden to prove that comparatively he will be put to greater hardship in case of passing the eviction decree. Besides, the tenant had demised and the respondents had not raised any plea to explain as to how they will be put to greater hardship as compared to the landlord. The Appellate Court was much impressed only with the submission made across the Bar, in this context, though, there was no amendment application filed by the respondents. The Appellate Court should have approached the issue of comparative hardship from the stand point of the view of the subsequent developments. The bona fide requirement of the landlord had still been in existence. His son was unemployed even at the time when the appeal was decided. As against this, two sons of the deceased tenant were gainfully self-employed and are residing separately. His daughters are married and the old aged widow was hardly in a position to do any business. Then she was aged about 62 years and now she is aged about 79 years. There was no documentary evidence before the Appellate Court to support the inference that she continued the business of herbal medicines etc. Needless to say, the Appellate Court approached the issue regarding comparative hardship by assuming that it was for the landlord to prove that the hardship which will be caused to the tenant could be of lesser degree than his own. Since the burden of proof was on the tenant, the approach of the Appellate Court is clearly erroneous and hence, the finding on the relevant issue is against the settled principles of law and needs to be corrected. I have no hesitation in holding, therefore, that

the comparative hardship was more to the landlord and the respondents failed to discharge the burden to prove that they would be put to greater hardship as compared to that of the landlord.

22. Now, it is worthwhile to note that under provisions of section 5(II)(c)(ii) of the Bombay Rent Act, the members of family of the deceased tenant may step into his shoes subject to condition that such member of the tenant's family was using the premises for the purpose of carrying on business or trade for which it was let out. The respondents did not explain as to who had continued the business in the suit shop after the death of Ramchandra Madhav Darunkar (died) by his LRs. Kalwati Darunkar and Others Vs. Abdul Sattar Ismail (deceased) through his LRs. Banubai Abdul Sattar and Others, , it is held that person who claims as successor of the tenant should be the person who is carrying on education, business, trade or storage in the premises. The relevant observations which are to be found in para 43 of the said judgment would make it amply clear that unless the family member of the tenant proves that he continued to use the tenement for the same purpose as was done by the deceased tenant, deeming effect cannot be given to his status and he cannot be regarded as "deemed tenant" within the meaning of section 5(1 I)(c) of the Bombay Rent Act. The Apex Court in case of Kailasbhai Shukaram Tiwari Vs. Jostna Laxmidas Pujara and Another, , held that the question as to whether a person is a member of the family of the tenant has to be decided on the facts and circumstances of the case. Mere fact that a relative has chosen to reside with the tenant for the sake of convenience would not make him a member of the tenant's family. In the case in hand, mere fact that the widow, or for that matter any of the married daughter, of the deceased tenant was residing with him at the time of his death is hardly of any relevance. They ought to have filed amendment application in the Appellate Court so as to plead as to how the widow can be regarded as the deemed tenant in relation to the commercial premises i.e. the suit shop. In absence of any such application filed by the respondents, there was no warrant for the Appellate Court to reach the conclusion that the widow of the deceased tenant was "deemed tenant" within the meaning of section 5(II)(c)(ii) of the Bombay Rent Act. The Appellate Court gave finding in this behalf only on surmises. The relevant observations of the Appellate Court are indicative of the mind set in this behalf. They are :

"There is no dispute that on the death of original tenant, his widow and other children were impleaded as legal representatives of the deceased. Obviously widow was living with the deceased and, therefore, she would come within the definition of section 5(11)(c) of the Bombay Rent Act, and, therefore, she has now stepped as a tenant."

23. Indeed, there was no propriety to consider whether the widow was living with the deceased tenant at the material time. For, the question of deemed status as a tenant was in respect of commercial premises. The issue is governed by sub-clause (ii) of section 5(II)(c) of the Bombay Rent Act and not under sub-clause (i)

of the said provision. It is for such reason that the Appellate Court appears to have committed patent error while holding that the widow of the deceased tenant is deemed tenant. Needless to say, the said finding is contrary to the legal provisions and hence will have to be quashed.

24. To conclude, it may be said that the landlord did prove personal and bona fide requirement for the suit shop. The Appellate Court rightly answered the relevant issue in his favour. The Appellate Court, however, committed patent error while approaching the issue regarding comparative hardship by wrongly placing the burden of proof of the said issue on the landlord. Similarly, the Appellate Court has committed patent illegality in holding that the widow of the deceased tenant is deemed tenant in relation to commercial premises only because she was residing with him at the material time of his death. Once it is found that the comparative hardship would be of more degree to the landlord, if the eviction decree is refused, then it follows that the petitioners are entitled to the relief of eviction. The petition will have to be therefore, allowed.

25. In the result, the petition is allowed and the impugned orders of the trial Court as well as Appellate Court are quashed. The suit for eviction is decreed. The petitioners to recover possession of the suit shop from the respondents which latter shall hand over within a period of two months. The respondents shall also pay the rent arrears, if any, upto the date of the eviction. The parties to bear their own costs of this petition and that of both the Courts.