

(1921) 06 BOM CK 0040

Bombay High Court

Case No: None

Vithaldas Bhagvandas

APPELLANT

Vs

Nagubal M. Joshi

RESPONDENT

Date of Decision: June 10, 1921**Citation:** 68 Ind. Cas. 330**Hon'ble Judges:** Pratt, J**Bench:** Single Bench

Judgement

Pratt, J.

The plaintiff, who is the owner of a building on Sandhurst Road, seeks to evict the defendant, a lady Doctor, who is in occupation of the ground floor as residence and first floor as a hospital and also of one motor garage in an out-house appertaining to the building.

2. The plaintiff himself lives on the New Charney Road, and has two motor cars and two carriages without horses. He says he does not require any part of the property in the occupation of the defendant, except the motor garage; He wants this motor garage for the accommodation of one of his cars. His cars are at present accommodated, one in a hired garage close to his residence, and the other, in a vacant shop on the ground floor of his sister's house. The carriages are, one, at his sister's bungalow on Malabar Hill, and the other, in one of the other garages in the same out-house.

3. The car, which is in the hired garage close by, is conveniently situated, and he is content to leave that car there. The car he wants to accommodate in the garage, which he seeks to acquire possession of, is the car which is in his sister's shop. He says the car is only temporarily accommodated there, but surely it is not likely that his sister would turn that car out of the shop. The only extra convenience he gets by removing the car from the sister's house to the garage in suit, is a gain of four or five minutes in time. The shop in his sister's house, is ten minutes from his own residence, and the garage in suit is four or five minutes distant.

4. Again, I see no reason why the plaintiff should not remove the carriage which is in one, of the same garages in the same out-house and accommodate his car there. The carriages are not in use and he ought to be able to find godown-accommodation for that carriage somewhere else.

5. On these facts, I am not satisfied of the bona fides of the plaintiff's requirement.

6. But even assuming that the plaintiff's requirement is bona fide it is not reasonable. Plaintiff must sue to evict the defendant from the whole of her premises in occupation as his tenant, and I must, therefore, that with the suit on that footing. It comes to this, therefore, that a bona fide requirement of a small fraction of the premises leased does not, in my opinion, amount to a reasonable requirement of the whole of the premises. For these reasons, therefore, I find on the issue framed, in the negative, and dismiss the plaintiff's suit with costs.