IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

SECOND APPEAL NO.339/2025

M.G. Shahid S/o Abdul Kadar
...Versus...
The New Cotton Ginning & Pressing Company, Akot through its Chairman and Managing Director Shri Narendra Vasantrao Joat

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
	Mr. P.B. Patil, Advocate for appellant Mr. C.A. Lohia, Advocate for respondent

CORAM : ROHIT W. JOSHI, J.
DATE : 27/11/2025

1. The present appellant is a tenant of the respondent. The respondent had let out open land to the appellant initially for a period of 10 years under lease-deed dated 05/11/1979. Subsequently, lease was executed for a period of 10 years commencing from 01/11/1989 to 31/10/1999 vide registered lease-deed dated 31/10/1991. It is not in dispute that before the subsequent lease-deed was executed the tenant had constructed a structure on the leasehold land. After the tenure of subsequent lease came to be end on 31/10/1999, the landlord filed suit for eviction being Regular Civil Suit No.99/2003. In this suit, the appellant/tenant had raised a contention that the suit was not maintainable since permission to terminate tenancy or to issue notice, as contemplated under the C.P. and Berar Letting of Houses and Rent Control Order, 1949 (for short hereinafter referred to as “Rent Control Order, 1949”) was not obtained.

2. It is not in dispute that the Rent Control Order, 1949 is repealed by the Maharashtra Rent Control Act, 1999 (for short hereinafter referred to as "MRC Act"), which has come into force w.e.f. 31/03/2000. Learned trial Court has held that the lease with respect to the aforesaid land does not fall within definition of term "premises", as defined under Section 7 (9) of the MRC Act and therefore, the defendant/tenant was not entitled to protection of the MRC Act. The suit was accordingly decreed since the tenure of lease has come to an end. Aggrieved by the said decree for eviction, the defendant/tenant filed an appeal being Regular Civil Appeal No.25/2014, which came to be dismissed vide judgment and decree dated 08/08/2025. These concurrent decrees for eviction are subject matter of challenge in the present second appeal.

3. At the outset, it must be stated that parties are in agreement that lease will not be governed by the provisions of the Rent Control Order, 1949. The dispute between the parties is as to whether protection of MRC Act will be available to the defendant/tenant.

4. Mr. Patil, learned Advocate for the defendant/tenant contends that admittedly before execution of second lease-deed, a structure was constructed on the leased land. He contends that although the structure was constructed by the tenant, the land and the structure cannot be separated. He contends that both the land and building will constitute a single unit, which falls within the definition of

term "premises" as defined under Section 7 (9) of the MRC Act and as such, the suit will be governed by the provisions of MRC Act. Mr. Patil has placed strong reliance on the judgment of the Hon'ble Supreme court in the matter of ***Kamla Devi Vs. Laxmi Devi***, reported in ***(2000) 5 SCC 646*** in support of his contention. He has particularly referred to paragraph 11 of the judgment, wherein the Hon'ble Supreme Court has dealt with definition of term "premises" as defined under the Delhi Rent Control Act, 1958.

5. Per contra, Mr. Lohia, learned Advocate for the respondent, who is original plaintiff/landlord contends that the property leased was an open land, which does not fall within the definition of term "premises". He contends that since lease is only with respect to open land, which does not fall under definition of the term, "premises", protection of the MRC Act cannot be claimed by the tenant. Mr. Lohia has placed reliance on the same judgment, on which the learned Advocate for the petitioner has placed reliance. Apart from this he has also placed reliance on the judgment of the Hon'ble Supreme court in the matter of ***C. Albert Morris Vs. K. Chandrasekaran and others***, reported in ***(2006) 1 SCC 228***.

6. Perusal of the judgment in the matter of ***Kamla Devi*** (supra) will demonstrate that in the said case the construction of a small toilet was made by the tenant over open land, which was leased to him by the landlord. The Hon'ble Supreme Court has held that since the construction was made by the tenant and lease was pertaining to open

land, protection of the Rent Act was not available to the tenant. It will be pertinent to state that the Hon'ble Supreme Court has placed reliance on earlier judgment in the matter of ***Krishnapasuba Rao, Kundapur Vs. Dattatraya Krishnaji Karani***, reported in ***AIR 1956 SC 1024***. The judgment in the matter of ***Krishnapasuba Rao*** (supra) deals with the provisions of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 which are *pari materia* with the MRC Act. In the said case also open land was let out to the tenant on which the tenant had raised a building structure. The dispute was as to whether tenant was entitled to protection of the Rent Act. Since the property let was only an open land, the contention of tenant with respect to protection of Rent Act was repelled by the Hon'ble Supreme Court. The judgment in the matter of ***C. Albert Morris*** (supra) also supports the contention of respondent/landlord that if open land is leased to a tenant on which tenant raises permanent structure, the said structure does not fall within the definition of term "premises" since the structure is not let out by the landlord for rent.

7. In the case at hand, it is undisputed that although the structure was existing on the suit land prior to execution and registration of subsequent lease-deed, it is also not in dispute that the said structure was constructed by the tenant.

8. In view of the above, in the considered opinion of this Court, the conclusion drawn by both the learned Courts with respect to applicability of MRC Act is legally correct and proper. The said conclusion does not call for any interference.

9. In view of the above, second appeal does not disclose any substantial question of law and is dismissed accordingly. Parties to bear their own costs.

10. At this stage, Mr. Patil, learned Advocate for the petitioner makes a request that reasonable time may be granted to vacate the suit property, since the appellant is running his business from the suit property. He states that while granting stay to execution of decree passed by the learned trial Court, the learned first appellate Court had imposed certain conditions, pursuant to which, amount of Rs.7,50,000/- is already deposited by the appellant with this Court and the said amount is transferred to the account of learned first Appellate Court. He further states that amount, as determined by the learned first Appellate Court to be deposited, is being regularly paid every month to the respondent/landlord.

11. Learned Advocate for the respondent/landlord does not dispute the statement. He, however, contends that since protection of Rent Act is not available, time to vacate the premises should not be granted.

12. Having regard to the fact that a substantial amount of Rs.7,50,000/- is deposited by the appellant and amount, as determined by the first Appellate Court is also being paid coupled with the fact that appellant is earning his livelihood from the suit property, time up to 31/03/2026 should be granted to the appellant to vacate the suit premises.

13. Son of the appellant is personally present in the Court. On instructions, Mr. Patil, learned Advocate for the appellant, makes a statement that the appellant shall file undertaking on affidavit that physical vacant possession of the property will be delivered to the landlord on or before 31/03/2026.

14. Statement is accepted as an undertaking.

(ROHIT W. JOSHI, J.)

Wadkar