



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

SECOND APPEAL NO. 118 OF 2026

- 1) Smt.Asha w/o. Hiralal Gajale
Age @ 64 yrs, Occ – Household,
- 2) Atul Hiralal Gajale
Age @ 41 yrs, Occ – Washerman,
- 3) Ganesh Hiralal Gajale
Age @ 39 yrs, Occ – Washerman,
All R/o. Near Dr. Kothari, Scan Centre,
Badnera Road, Amravati,
Tq & Dist. Amravati

} **.. Appellants**
(Original Defendants)

Versus

Santosh @ Ambadas Jayendra Decocrankara,
Age @ 47 yrs, Occ–Computer Programmer,
R/o.Budhwara, Amravati,
Tq. & Dist. Amravati

} **.. Respondent**
(Original Plaintiff)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders or the directions,
and Registrar's orders.*

Court's or Judge's order

Mr. S.M.Vaishnav, Advocate for appellants.

CORAM : ROHIT W. JOSHI, J.
DATED : MARCH 25, 2026

- 1) The appellants in the present appeal have suffered concurrent decrees for eviction and possession. The present appeal arises out of judgment and decree dated 07/02/2026 passed by the learned District Judge-5 Amravati in R.C.A.No.86/2019, whereby the learned District Judge partly allowed the appeal by maintaining the decree to the extent of delivery of possession of the suit property and set aside the decree dated 13/03/2019 to the extent of damages, passed by

the learned Joint Civil Judge Junior Division, Amravati in R.C.S.No.430/2016. The present appeal is filed by the original defendants. The respondent is the original plaintiff. Parties will hereinafter be referred to as plaintiff and defendants.

2) The suit property is located within Municipal limits of Amravati City. Provisions of Maharashtra Rent Control Act, 1999 (M.R.C. Act) are applicable to 'premises' located within Amravati City. However, the definition of the term 'premises' as defined under Section 7(9) of the M.R.C. Act, will indicate that only building structures are covered under the definition. The provision also makes reference to open land in the nature of gardens, grounds, garages, out-houses if the same are appurtenant to such building or part of building. The words '*such building*', used in Section 7(9)(i) will imply that an open ground will be covered within the definition of 'premises' only if it is appurtenant to a building which is let or given on license. It is not in dispute that the lease was with respect to open land without any construction. Construction on the property is made by the appellants/defendants, who are tenants. Since the suit property does not answer the description of the term 'premises' as defined under Section 7(9) of the M.R.C. Act, protection under the said Act is not available. The tenancy is therefore, governed by the Transfer of Property Act.

3) Learned counsel for the appellant Mr.Vaishnav, places reliance of judgment of the Hon'ble Supreme Court in the case of *Nalnikant Ramadas Gujjar vs. Tulasibai (Dead) by LRs and others* reported in *AIR 1997 SC 404*, to contend that open land is covered within the definition of the term 'premises'. The said judgment deals with definition of the term 'premises' as defined under Section 5(8) of the erstwhile, Bombay Rents, Hotel and

Lodging House Rates (Control) Act, 1947 (hereinafter referred to as '***Bombay Rents Act, 1947***'). Section 5(8) of the said Act reads as under :-

"(8) "premises" means—

(a) any land not being used for agricultural purposes,

(b) any building or part of a building let separately (other than a farm building) including-

(i) the garden, grounds, garages and out-houses, if any, appurtenant to such building or part of a building,

(ii) any furniture supplied by the landlord for use in such building or part of a building,

(iii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof, but does not include a room or other accommodation in a hotel or lodging house;"

4) Perusal of Section 5(8)(a) will demonstrate that any land not being land used for agricultural purpose was covered within the definition of the term 'premises' under the said Act. The definition of the term 'premises' under Section 7(9) of the M.R.C. Act excludes clause (a) from the definition and retains clause (b) of Section 5(8) of the erstwhile Bombay Rents Act, 1947. It will be pertinent to mention that the Bombay Rents Act, 1947 is repealed by the M.R.C. Act, 1999. It is well settled that when a repealing Act departs from definition of same term under the old Act, the intention of the legislature is express and explicit to do away with the said definition. Comparison of the definition of the term 'premises' under the erstwhile Bombay Rents Act, 1947 and the present M.R.C. Act will demonstrate that clause(a) of Section 5(8) is excluded while defining the term 'premises' and rest of the definition is retained as it is.

5) In view of the aforesaid, it is clear and explicit that the legislature intended to exclude open land from the definition of

the term 'premises' and further not to grant protection of the Rent Act to lessees of open land.

- 6) This is the only question that was pressed into services during the course of hearing of the appeal. The contention canvassed does not give rise to any substantial question of law. The second appeal, is therefore, dismissed with no order as to costs.

(ROHIT W. JOSHI, J.)