

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

**CIVIL APPLICATION (CAW) NOS. 1031 AND 1032 OF 2026
IN
WRIT PETITION NO. 7236 OF 2024**

(Pushpa Sanjay Gupta ..vs.. State of Maharashtra and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Anil Mardikar, Senior Advocate a/b. Mr. P.A. Gupta, Advocate for the petitioner,
Mr. Anup Dangore, Advocate for the applicants/intervenors,
Mr. S.M. Puranik, Counsel for respondent No.2,
Mr. A.B. Badar, AGP for the respondents/State.

**CORAM : URMILA JOSHI-PHALKE &
NIVEDITA P. MEHTA, JJ.**

DATED : 24-04-2026

Civil Application No. 1031/2026 is for recalling and modification of the order dated 09-04-2026 passed in Writ Petition No.7236/2024 and Civil Application No. 1032/2026 is for intervention/addition as party respondents in the matter.

2. The writ petition was filed seeking directions to respondent Nos.1 to 4, particularly respondent No.2 - Nagpur Improvement Trust (NIT), to remove unauthorized constructions and encroachments over Government land as well as over the land belonging to the petitioner. By order dated 30.03.2026, this Court had recorded a statement made on behalf of respondent No.2 that encroachments on NIT land would be removed. Thereafter, by order dated 09.04.2026, the statement of NIT that the unauthorized structures would be removed within a period of six weeks was accepted and the writ petition came to be disposed of.

3. The present applicants, who seek intervention as well as recall/modification of the said order, claim to be tenants under respondent No.11 and contend that they are carrying on business activities in the premises in question since the year 2024. According to them, they were not parties to the writ petition and were unaware of the proceedings. It is their grievance that pursuant to the order passed by this Court, respondent No.2 has issued notice dated 22.04.2026 directing them to vacate the premises within 24 hours, and therefore, they seek recall of the order dated 09.04.2026 or in the alternative, grant of reasonable time to vacate the premises.

4. We have considered the submissions. At the outset, it needs to be noted that the writ petition itself stands disposed of on the basis of a statement made by the statutory authority, namely respondent No. 2 - NIT, to remove unauthorized constructions. The Court has neither adjudicated upon nor determined any *inter se* rights between private parties. The direction issued is essentially in the nature of enforcement of statutory obligation of removal of encroachments from public land.

5. The claim of the applicants is admittedly founded upon tenancy allegedly created by respondent No.11. However, from the earlier orders passed in the writ petition, it is evident that the claim of respondent Nos.5 to 11 over the subject property itself was under serious doubt and scrutiny, and even the documents relied upon on their behalf were found to be questionable. In such circumstances, the applicants, who claim through such respondents, cannot assert any independent or superior right so as to seek interference with the order passed by this Court.

6. The prayer for recall of the order dated 09.04.2026 is equally misconceived. The power to recall a final order is a limited one and can be exercised only in cases where the order is obtained by fraud, or where there is a manifest error resulting in failure of justice, or where a necessary party was deliberately kept out leading to violation of principles of natural justice. In the present case, the order was passed in a petition seeking removal of unauthorized encroachments on public land and not for adjudication of tenancy or possessory rights. Therefore, non-impleadment of the present applicants cannot be said to have vitiated the proceedings so as to warrant recall of the order.

7. It is also well settled that a person claiming through an alleged encroacher cannot seek equity from the Court to continue in occupation of an unauthorized structure. The considerations of investment or livelihood, though sympathetic, cannot override the requirement of removal of illegal constructions, particularly when the land in question belongs to a public authority.

8. Insofar as the grievance of the applicants regarding the notice dated 22.04.2026 and the time granted therein is concerned, it is always open for the applicants to approach the appropriate forum in accordance with law for addressing their grievance. The writ jurisdiction cannot be invoked to convert proceedings for removal of encroachments into adjudication of private tenancy disputes or for granting protection to continue unauthorized occupation.

9. In view of the aforesaid, we are of the considered opinion that no case is made out either for allowing intervention in a petition

which already stands disposed of or for recalling/modifying the order dated 09.04.2026.

10. The Civil Applications are, therefore, rejected. Needless to clarify that rejection of these applications shall not preclude the applicants from availing such remedies as may be available to them in law.

(Nivedita P. Mehta, J.)

(Urmila Joshi-Phalke, J.)

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