



Presented on	23. Feb. 2026
Registration on	26. Feb. 2026
Decided on	20. Apr. 2026
Duration	0 Ys, 1 Ms, 28Ds

IN THE COURT OF DISTRICT JUDGE-6, NAGPUR.

Presided over by
Shri M. S. Ganorkar.

Misc. Civil Appeal No.72 of 2026.

Ex.No.17.

CNR No. MHNG010027372026.

Arsing out of Case / Notice No. 981/M. S.

Abdul Gafoor Abdul Karim,
Through its Legal representative
Saqib Ghafoor Parekh,
Aged about 53 Years, Occ. Business,
R/o Plot No.5, South Side Fire Brigade,
Lakadganj Zone No.8, NMC, Nagpur.

.....Appellant.
(Orig. Defendant).

...V/s...

1. The Nagpur Municipal Corporation,
Through its Municipal Commissioner,
Civil Lines, Nagpur.
2. Deputy Municipal Commissioner (Estate),
Nagpur Municipal Corporation,
Civil Lines, Nagpur.
3. The Assistant Commissioner/Ward officer,
Lakadganj Zone No.8 of the Nagpur
Municipal Corporation, Lakadganj,
Nagpur.

.....Respondents.
(Orig. Plaintiff)

**Appeal against order U/Section 81-F The Maharashtra
Municipal Corporations Act, 1949.**

Appearance :

For the Appellant. : Shri. Adv. P. B. Agrawal.
For the Respondent. : Shri. Adv. A. M. Quazi.

J U D G M E N T

[Delivered on 20th April 2026]

1. The appeal is under Section 81-F of the Maharashtra Municipal Corporation Act filed by the person in possession of the land belonging to Nagpur Municipal Corporation against the notice of eviction.

The Brief Facts of the case of the appellant are as under :-

2. The appellant the lease holder and lawful occupant of the plot situated in Lakadganj Kadbi Tanas Padav, Nagpur. The appellant is a businessman who operating his business from the plot since year 1970. This business is only source of livelihood of the appellant. Respondent Nagpur Municipal Corporation is the local authority constituted under the provisions of Maharashtra Municipal Corporation Act.
3. On 09/05/2025 respondent No.2 issued show cause notice to the appellant under Section 81(B)(2) of the Act of 1949. The appellant received the notice on 26/05/2025. This notice was issued on the premises that NMC requires suit premises for reconstruction of Lakadganj Fire Station. Thereafter appellant filed application for supply of 15 documents and grant of time to file written statement on 02/06/2025. Appellant was not supplied with the material on which proposed action was to be taken. Appellant again filed application for supply of documents but they were not supplied. The appellant received notice dated 05/08/2025 for hearing on 02/09/2025.

Thereafter on 29/08/2025 appellant received letter with documents. The appellant sought 15 documents out of which 8 were supplied by respondent No.2. Out of supplied documents 4 were not legible. The appellant again applied for supply of documents. Respondent No.2 made an entry in the order-sheet about the supply of documents but documents were not supplied.

4. On 10/09/2025 appellant received order dated 04/09/2025. The order was passed without written statement of the appellant and without giving him opportunity of hearing and leading evidence. That order was challenged by appellant before this Court. The said notice on the basis of which order was passed by NMC was subsequently withdrawn.
5. Thereafter NMC issued second show-cause notice. The appellant was not supplied with the document on the basis of which impugned order dated 04/09/2025 was passed. Later on NMC passed impugned order dated 30/01/2026 without following principles of natural justice. On the basis of order dated 30/01/2026 notice dated 02/02/2026 was issued.
6. During the course of hearing appellant applied for cross examination of the witness of NMC but it was rejected. The premises in the possession of appellant was not on leave and license basis but it is a lease on year to year basis. Hence, impugned order is illegal. The premises in possession of the appellant is outside the redevelopment plan and there is no need for the NMC to take that land for development purpose. This fact is ignored at the time of passing impugned order. As per appellant Khasra No.112, 115, 116 of Nagpur cannot be kept for redevelopment of Fire Station. Even Khasra No.115 cannot kept for Fire Station as land is very big and sanctioned

building plan is for 3213 sq. meters of area. The remaining plots outside the 3213 sq. meters area is not required. Hence, impugned order dated 30/01/2026 is illegal. The Map given by the NMC is subsequently changed to show the area outside the required area for the development. The property in possession of appellant is not coming on the land required for Lakadganj Fire Station.

7. Respondent No.2 proceeded to pass impugned order mechanically and without considering the objections raised by the appellant. The order was hastily passed and there was no application of mind.
8. Previously appellant was allotted plot near water tank in the year 1970. At the time of construction of water tank in 1980 he was shifted and rehabilitated to the present plot. Earlier appellant was in possession of 500 sq. ft. area and subsequently he was given 2300 sq. ft. land in same layout. As per the Maharashtra Municipal Corporation respondent No.2 is not having power to pass impugned order and those powers are with the Commissioner. Hence, order is passed without any authority by respondent No.2 and saying not sustainable in the eye of law. The premises in possession appellant are not required by the NMC for development of Lakadganj Fire Station. There is no case made out by the NMC for issuance of impugned notice. The notice is illegal and prayed that the notice dated 02/02/2026 and the order passed in case / notice / No.981/M.S. be quashed and set aside.
9. Respondents in their written submission stated that the premises were allotted to the appellant for running of business and they were specifically allotted with an intention to provide the facility of the business. Respondents denied all adverse allegations made in the appeal. Respondents further submitted that respondents No.2 enjoys

authority and power with due delegation from the Commissioner of Nagpur Municipal Corporation. He is empowered to issue show cause notice to the occupiers and accordingly issued notice dated 09/05/2025 informing appellant that NMC was intending to make construction for Fire Station as per development plan. So appellant is required to vacate the premises and consequently show cause notice was issued to the appellant. The appellant filed an application to supply document which were supplied. Appellant filed frivolous application dated 02/09/2025 asking documents which are not relevant with the controversy. The four documents which were relevant were supplied. Appellant is unnecessarily making allegations against the NMC in respect of the documents.

10. The order was passed by respondent No.2 and it was challenged by the appellant. After filing of the reply/submissions by NMC it was revealed that some technical aspects were not completed including the correctness of the project. Hence, pursis dated 12/11/2025 came to be filed before the Court and the order dated 04/09/2025 which under challenged was withdrawn by the respondents. Court accordingly disposed off the appeal.
11. In show cause notice dated 09/05/2025 the project of year 2000 was wrongly mentioned. Hence, corrigendum dated 28/11/2025 came to be issued making clarification including the deletion of the project mentioned in earlier notice and correct project for which premises is required. Respondent further submitted that after corrigendum dated 18/11/2025 was issued the matter was fixed for filing written statement / defence by the appellant. All documents were supplied and controversy for non supply of document came to an end. Appellant filed their written statement on 11/12/2025 and also filed

an application making request to direct the department to file affidavit in support of the contention and also prayed for giving opportunity of cross examination. The prayer for directing respondent to file affidavit for allowed and prayer for permission to cross examine the witness was rejected. The defence raised by the party can be decided on the basis of document and department relied on documentary evidences so there was no need of cross examination. Appellant accepted the order and did not challenge it. Department was directed to file affidavit with liberty given to the appellant to file counter affidavit. The copy of the affidavit of the department was supplied to appellant and matter came to be fixed for filing counter affidavit on 05/01/2026. Appellant filed counter affidavit on 09/01/2026 both the parties were directed to file written argument. Appellant filed pursis on 19/01/2026 stating that his affidavit be treated as argument. The case was fixed for order and on 02/02/2026 order was passed.

12. Respondents submitted that as per Section 81(b) of MMC Act the cases are to be dealt with the summary procedure. Power and Authority is of NMC in order to get the premises vacated from occupier. The grounds on which NMC is getting the property vacated can be subject matter for adjudication and consideration before this Court. NMC is having every right to get the property vacated for public purpose. NMC has given the reasons and ground for which the property is required and then prayed for rejection of the appeal.
13. In view of these rival submissions, the following points arise for determination before this Court. Said points and findings thereon which follows reasons are as under :

Points For Determination

<i>Sr. No.</i>	<i>Points</i>	<i>Findings</i>
1.	Whether respondent Corporation requires premises for public interest ?	...Yes.
2.	Whether respondent No.2 passed order dated 30/01/2026 by following due process of law ?	...Yes.
3.	Whether the notice issued by respondents dated 02/02/2026 is legal ?	...Yes.
4.	Whether appellant is entitled for relief claimed ?	...No.
5.	What order ?	...Appeal is dismissed as per final order.

REASONS

As to the point nos. 1 to 3.

14. The facts of the case coming on record as per the rival claims are that the appellant is having shop near Lakadganj Fire Station. The construction of new Fire Station is done by respondent NMC. The appellant and other shop owners who are having their shop since long have been given notice of eviction by the Corporation. It is the contention raised by appellant and other persons, that their shops are outside the area required for the reconstruction of the Fire Station. There is no need to remove the shop of the appellant. The action of NMC giving notice to the appellant is illegal. The NMC issued notice for hearing to the appellant and other shop owners. They appeared in the matter. As per appellant they were not given opportunity to cross examine the witness of the Corporation. The application for permission to cross examine witness of NMC was rejected by respondent No.2. The order was passed without following the rules of natural justice. The order is illegal and deserves to be set aside. The

respondents denied these allegations and submitted that the NMC is doing construction as per the sanctioned plan and opportunity of hearing was given to the appellant. After considering all the objection raised by the appellant the order was passed by respondent No.2 and accordingly eviction notice was issued.

15. Learned Counsel for appellant argued that the appellant and other person are running their shops at disputed side since 1985. Earlier they were having about 5000 sq. ft. area of land in their possession in Khasra No. 115. There is open land in three Khasra No. 112, 115 and 116. There is huge open space in that area. For the construction of water tank the appellant and other persons surrendered their land and they were given about 3200 sq. ft. area of land. Appellant are cooperating with the development work taken by NMC for public purpose. Earlier land was leased to the appellant for 20 years. Thereafter lease period was extended every year, on year to year basis. Since year 2014 NMC neither extended the lease nor accepted the rent. NMC without terminating the lease stopped receiving the rent amount. The appellant had given the cheque for payment rent amount but they officers of respondent No.1 did not accept the cheque. The land was not allotted to appellant as a licensee but he got a lessee of the land. Without termination of the lease NMC cannot claim possession of the disputed premises which is in possession of the appellant.
16. He further argued that earlier notice dated 09/05/2025 was received by the appellant. In the said notice NMC stated that it requires the disputed premises for construction of Fire station. The appellant filed application for supply of 15 documents and grant of time to file written statement on 02/06/2025. All the documents were not

supplied and only eight documents were given and some of those documents were legible. Thereafter appellant was called for hearing on 02/09/2025 without supply of the documents. On 04/09/2025 the respondent No.2 passed order against appellant without giving them opportunity of hearing. That order was challenged by appellant before this Court and subsequently the respondents had taken back the eviction notice.

17. Learned Counsel for appellant further argued that notice of hearing was given to the appellant. Accordingly appellant filed application before the respondent No.2 directing NMC to file affidavit and permission be given to the appellant to cross examine the witness of the NMC. This application was rejected. The work of respondent No.2 is of quasi judicial nature. The principle of natural justice are to be followed. The opportunity to cross examine witness of NMC was given to the appellant. In cross examination of the appellant the facts which NMC is concealing could have been brought on record. The appellant did not get the opportunity to bring facts before the Court which NMC is concealing. In cross examination it would have come on record that the shop of appellant is outside the area required for construction of Fire Station. He submitted that the order passed by respondent No.2 is illegal and deserves to be set aside. He submitted that if copies of order-sheet of the proceeding are perused then it clearly reflects that opportunity of hearing was denied to the appellant. He submitted in a sanction map filed on record the plot required for construction of Fire Station is 3213 sq. meters. The total plot which is available on the spot is 5851.54 sq. meters. The shops of appellant and other persons against whom eviction order is passed are outside the 3213 sq. meters land. In such circumstances there is

no need for the respondents of the land which is in possession of the appellant. The lease of the appellant is in existence and it is not duly terminated by the NMC. There is no need of the land belonging to appellant for development work. The proper opportunity was not given to the appellant to establish his case. Hence, order of respondent No.2 dated 30/01/2026 and eviction notice dated 02/02/2026 are illegal and deserves to be quashed and set aside. He submitted that after filing this appeal NMC had taken possession of the property. Such action of NMC is high handed and illegal. He prayed that respondents be directed to restore the possession of the appellant as on the date of filing of appeal.

18. Learned Counsel for appellant relied on authority of ***Nandini J. Shah and Anr....vs...Life Insurance Corporation of India, 2008(4) Mh.L.J. 106***. In this authority it is held that when application for eviction is made on such grounds which required production of positive evidence on the part of landlord, then he is entitled to produce evidence in support of the costs. The occupant should get an opportunity to cross examine the witness. The other authority is ***New India Assurance Company Ltd...vs...Nusli Wadi, 2008 SCCR 254***. In this authority it is held that the burden of proving the fact rest on the party substantially asserts the affirmative of the issue and not upon party who denied it. The next authority is ***Rudramani Devguru ...vs... Shrimad Maharaj Niranjana Jyotiraj Dr. Rajayogendra Mahaswami Guru Moorusaavira Matha, AIR 2005, Kant. 313***. The last authority relied is ***Maganlal Chhaganlal Pvt. Ltd...vs... Municipal Corporation of Greater Bombay, AIR 1947 SC 2009***. In this authority it is held that notice mentioning the grounds of eviction is necessary before eviction.

19. Learned Senior Counsel appearing for the respondents submitted that the eviction notice is issued by the NMC by following due process of law. He submitted that the NMC is working as per the provisions of law. The project of development of Lakadganj Fire Station is a need considering the rising population residing in Nagpur. Earlier Fire Station was insufficient to meet with the present days requirement. It is not that all of a sudden decisions are taken by the Corporation. NMC is a development authority for the area of Nagpur. The plan for development of Nagpur Fire Station was prepared the land admeasuring 5851.54 sq. meters was reserved for that purpose. The plan was published as per the provisions of MRTP Act. Appellant or other persons did not raise any objection to the sanction plan after it was published. The funds were sanctioned by the NMC for construction of the Fire Station. The work started and as work progresses the land which is required for the construction is taken in possession by the NMC. The area on which building is constructed is around 3213 sq. meters. Thereafter the land is required for approach roads, parking of vehicles and other purpose. The shop of appellant and other persons are on the parking area. In Fire Station fire tenders are to be kept ready for service, all the time. There should not be obstruction to the fire tender. The building of the Fire Station is three storied and on ground floor there is space for the fire tender. Notice of hearing was given to the appellant. He appeared and participated in the proceedings.
20. It is a contention of the appellant that opportunity of hearing was not given to him. Appellant filed reply to the notice. Thereafter he filed application for permission to cross examine the witness of NMC. At that time the case was not fixed for the evidence of NMC. Hence, the

application was rejected. Appellant filed his affidavit and thereafter the witness of NMC filed affidavit. After filing of affidavit by the witness of NMC the permission was not sought for cross examination of the witness. The application was made by the appellant when the stage of cross examination was not there and at the stage of cross examination appellant did not request for cross examination of the witness. Hence, the allegations of the appellant are after thought and without any merits. He submitted that the proceeding before respondent No.2 is of summary nature. The evidence is to be laid on affidavit and supporting documents are to be filed by both the parties. If particular situation arises where cross examination of the witness is necessary then only permission can be given. He relied on *Omprakash Sawalram Agrawal and Others....vs...Nagpur Municipal Corporation and Others, 700 [2010(6) Mh.L.J.]*. He further relied on *Ramchandra Jivatram Chetwani...vs...Pune Municipal Corporation and Ors., [2013(1) Mh.L.J.]*. He further relied on *Nagappa Macha Mogvira...vs...Kalyan dombivli Municipal Corporation, W. P. (ST) No.11609 of 2016*. He further relied on *Pawan Suhla Jain..vs...The Deputy Municipal Commissioner, W. P No.54 of 2023*.

21. I perused the pleadings of both the parties and documents produced on record by both the parties. It is admitted position of fact that the construction of Lakadganj Fire Station is going on, adjacent to the land which is in possession of appellant. It is the case of appellant that the land which is in his possession is not required for construction of Fire Station. As per the sanctioned map filed by NMC the construction of Fire Station is to be made on 3213 sq. meters area. The land available on the spot is 5851 sq. meters. The land in possession of the appellant is outside the area of 3213 sq. meters and

hence, it is not necessary. I perused the map filed on record. In the map as per measurement-sheet the area of plot is 5158 sq. meters. The building of the Fire Station is multi-storied as per the plan. The area of ground floor is shown to be 3213 sq. meters in the sanctioned plan. The area adjacent to this building is required for accesses to the fire tenders, parking of the vehicle and other purpose. If three stories building is constructed then there will be quite number of employees working in it. So in such circumstances space will be required for parking of their vehicle. As per sanctioned plan the total area required for fire station is shown 5851.54 sq. meters. The Corporation claimed that after construction of building other space is required by the Corporation for parking and other purpose. Initially the area on which the building was constructed was taken in possession and subsequently the remaining area is taken in possession. Initially the area on which the structure of appellant is standing was not disturbed. Now that space is required, hence, notices were issued to the appellant and adjoining occupants. The Corporation has given notice to the appellant and hearing was also given to them. They appeared in the proceeding through advocate. The contention of the appellant is that proper hearing was not given and opportunity to cross examine the witness of the Corporation was not afforded to the appellant. As per appellant the proceeding was not held as per principle of natural justice and hence, the order passed by Commissioner dated 30/01/2026 is illegal and the notice dated 02/02/2026 is also illegal.

22. If facts of the case are seen, the appellant was initially the lessee of the land. Lease was extended time to time till year 2014. Thereafter appellant tried to deposit the rent with the Municipal authorities but

they did not accept it. As per appellant he was not a licensee. The lease has to be terminated by giving notice but lease is not terminated hence, the notice given by the Corporation is illegal. The lease was given to the appellant for fixed period. After expiry of lease period it comes to an end. After lease period was over Corporation did not accept the premium. It being land of local body the principle of tenant holding over is not applicable and no such pleadings are made in the appeal memo. So after conclusion of lease agreement the lessee cannot claim any right on the property on the basis of lease agreement. So lease is not validly terminated this argument on behalf of appellant is not applicable to the facts of this case.

23. It is the case of appellant that he was not afforded the opportunity to cross examine the witness of the respondent. Admittedly the respondent No.2 has to carry out inquiry before passing the order. The inquiry is summary inquiry. In summary inquiry the points as framed on the basis of law are to be considered. It cannot be like at length trial. Normally the affidavits are filed by both the sides in support of their case. If required the opportunity to cross examine witness is to be given. The roznama of the inquiry proceeding is filed on record. The application for permission to cross examine was filed before filing of evidence by both the sides. It is the contention of respondent that the stage at which the application was filed the case was not fixed for cross examination. When the case is not fixed for cross examination the application cannot be allowed. As discussed above the inquiry before the respondent No.2 was to be conducted summarily. If required permission can be given to cross examination witnesses. If such permission or opportunity is not given then the party must show that serious prejudice is caused to him. Here the

appellant has not stated in appeal memo on which point he wanted to cross examine the witness of respondent and which prejudice is caused to him because cross examination to the witness was not done. If case of the appellant is seen it is based on documentary evidence and respondent also rely on the document. So opportunity of cross examination was not given due to this no prejudice was caused to the appellant.

24. It is the case of appellant that the place on which his shop is situated is outside the area required for the construction of fire station. The Nagpur Municipal Corporation is a Planning Authority for Municipal limits of Nagpur Corporation. For construction of the building fire station permission of Government is required. After preparation of the plan it is published and it is approved by the standing committee of the NMC. The plan was prepared on 30/12/2025 prior to that it was sent to Government for approval. When this land was reserved for construction of fire station it was published by the Corporation. This reservation was not challenged by the appellant. If any person is affected by any reservation then he can file appeal against such reservation. If document filed by corporation on record are perused then 5851.54 sq. meters of land was reserved for construction of fire station and that reservation was not challenged by the appellant. So corporation stopped extending lease in favour of appellant from year 2014. Even if some amount is accepted by the corporation towards used and occupation charges, then also lease cannot be said to be extended. Considering these discussion the appellant who is admittedly running his business on the land belonging to NMC cannot claim any permanent right on the land. The corporation is at liberty to get vacated land for public purpose. When reservation of

the land was already declared and it was not disputed by the appellant before issuance of notice, before appropriate Forum, he at this stage cannot say that the land is not required for construction of fire station. Hence, I answer points No.1 to 3 in the Affirmative and Point No. 4 in the Negative.

As to the point No.5.

25. As I have held that respondent Corporation proves that it requires premises for public interest. I further held that the order of respondent No.2 dated 30/01/2026 was passed by following due process of law and notice issued by respondent dated 02/02/2026 is legal, hence, the appellant is not entitled for any relief claimed. So the appeal deserves to be dismissed. Hence, proceed to pass the following order.

ORDER

1. Appeal is hereby dismissed.
2. Order passed on 30/01/2026 in Case/Notice No. 981/M.S. by the Deputy Municipal Commissioner (ESTATE) NMC, Nagpur is hereby confirmed.

Dictated and pronounced in open Court.

(Manish S. Ganorkar)
District Judge-6, Nagpur.

Date: 20/04/2026.

Case Argued on	07.03.2026
Judgment dictated on	20/04/2026
Transcription Ready on	20/04/2026
Order Checked and signed on	20/04/2026

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment are same, words to word, as per original Judgment.

Name of the Stenographer : Mr. S. M. Likhitar.