

IN THE COURT OF DISTRICT JUDGE-6, NAGPUR.

Presided over by
Shri M. S. Ganorkar.



Presented on 9. Sep. 2025
Registration on 9. Sep. 2025
Decided on 8. May. 2026
Duration 0 Ys, 7 Ms, 29Ds

Misc. Civil Appeal No.271 of 2025.

Ex.No.....

CNR No. MHNG010114832025.

Arsing out of notice/order of eviction dated 25/08/2025.

Ramesh Vishnu Madne

.....Appellant.

Aged about 60 Years, Occ. - Mutton Shop,
R/o New Shukrawari, Mahal, Nagpur -440032.

...V/s...

The Nagpur Municipal Corporation,
Through Assistant Municipal Commissioner,
Property and Assets Department office at
Administratie Building, C Wing, 3rd Floor
Civil Lines, Nagpur - 440001.

.....Respondent.

Appearance :

For the Appellant.

: Shri. Adv. S. P. Behar.

For the Respondent.

: Shri. Adv. G. A. Kunte.



Presented on 12. Sep. 2025
Registration on 15. Sep. 2025
Decided on 8. May. 2026
Duration 0 Ys, 7 Ms, 26Ds

Misc. Civil Appeal No.277 of 2025.

CNR No. MHNG010116952025.

Arsing out of notice/order of eviction dated 25/08/2025.

1. Pravin S/o Purushottam Mundhada,Appellants.
Aged about 70 Years, Prop.- Nagpur Rickshaw
Company & Vidya Printers (Shop No.6,14).
2. Sheikh Babar Sheikh Chand,
Aged about 65 Years, Prop.- Taj Engineering
Works (Shop No.2).
3. Anil S/o Ramdayal Mahendra (Khatri),
(For Late Govind Khatri)
Aged about 70 Years, Prop. - Nag Consumers
Co-op Stores. (Shop No.7).
4. Nilesh S/o Laxman Kumbhalkar,
Aged about 49 Years, Prop.- Bikes Service
Centre (Shop No.5).
5. Pournima w/o Sanjay Behare,
Aged about 52 Years, Prop.- Maharashtra Khadi
Gramudyog Sangha. (Shop No.8, 8A).
6. Vikash s/o Prabhakar Petkar,
Aged about 60 Years, Prop.- Vicky Honda
Service (Shop No.12, 12A, 12B).
7. Madhumulind Agro Agency,
(Through Nitin S/o Manoharrao Naik)
Aged about 60 Years, (Shop No.10).
8. Shailesh S/o Ramkrishore Yadav,
Aged about 60 Years, Prop. - Shree Ganraj
Enterprises (Shop No.17).
All Tenants of Bhyankar Smarak Trust, Plot
No.103, Agyaramdevi Square, Subhash Road,
Nagpur.

...V/s...

1. The Nagpur Municipal Corporation,Respondents.
Through its Municipal Commissioner,
Civil Lines, Nagpur.

2. Dy. Municipal Commissioner (Estate),
Nagpur Municipal Corporation, Civil Lines,
Nagpur.
3. Abhyankar Smarak Trust,
A registered Public Trust,
Through its Trustees.

Appearance :

For the Appellants. : Shri. Adv. M. L. Senad.
For the Respondents : Shri. Adv. G. A. Kunte.



Presented on 12. Sep. 2025
Registration on 17. Sep. 2025
Decided on 8. May. 2026
Duration 0 Ys, 7 Ms, 26Ds

Misc. Civil Appeal No.282 of 2025.

CNR No. MHNG010116862025.

Arsing out of notice/order of eviction dated 25/08/2025.

1. Maharashtra Shikshan Sanstha,Appellants.
Through its secretary Smt. Indirabai
wd/o Dewaji Deotale,
Aged about 83 Years,
Add :- Abhyankar Smarak Bhawan,
Shubhash Road, Ganeshpeth, Nagpur - 440018
Mobile No.9881966184.
2. Maharashtra Adhyayan Mandir
(High School), Through its Head Master
Shri Milind S/o Natthuji Nannaware,
Aged about 48 Years, Occ. Service,
Add :- Abhyankar Smarak Bhawan,
Shubhash Raod, Ganeshpeth, Nagpur - 440018,
Mobile No. 9881966184.

...V/s...

1. Maharashtra Municipal Corporation,Respondents.

Through its Municipal Commissioner,
Office - Chhatrapati Shivaji Maharaj,
Administrative Building,
A Wing, 3rd Floor, Civil Lines, Nagpur - 440001.

2. Maharashtra Municipal Corporation,
Through its Deputy Commissioner
(Estate Officer), Nagpur Municipal
Corporation, Nagpur.
Office - Chhatrapati Shivaji Maharaj,
Administrative Building,
A Wing, 3rd floor, Civil Lines,
Nagpur - 440001.

3. Abhyankar Smarak Trust,
A Public Trust Registered Vide
PTR No.E-22(N),
Add. :- Abhyankar Marg,
Dhantoli, Nagpur - 440012.

Appearance :

For the Appellants. : Shri. Adv. M. L. Senad.
For the Respondents : Shri. Adv. D. G. Paunikar.



Presented on 20. Sep. 2025
Registration on 22. Sep. 2025
Decided on 8. May. 2026
Duration 0 Ys, 7 Ms, 18Ds

Misc. Civil Appeal No.285 of 2025.

CNR No. MHNG010120792025.

Arsing out of notice/order of eviction dated 25/08/2025.

1. Bhojraj Champatrao Dakhore,Appellants.
Aged about 60 Years, Occ. Business,
Res. :- Subhash Road, Behind Khandoba
Mandir, Shanivari Cotton Market,
Mahatma Fule Bazar, Nagpur - 440018.

2. Chaduji Bhaiyyalal Jaitgude,
Aged about 63 Years, Occ. Business,
Res. :- Behind Gajanan Mandir,
Plot No.116, Ayodhya Nagar,
Nagpur - 440024.
3. Nilesh Ashokrao Bhondle,
Aged about 37 Years, Occ. Business,
Res. :- House No.78, Near VyayamShala,
Ganesh Peth, Nagpur - 440018.

...V/s...

1. The Commissioner,Respondents.
Nagpur Municipal Corporation,
Civil Lines, Nagpur.
2. The Deputy Commissioner (Estate),
Nagpur Municipal Corporation,
Civil Lines, Nagpur.
3. Abhyankar Smarak Trustees
Through its Trustees,
Dhantoli, Nagpur.

Appearance :

For the Appellants. : Shri. Adv. M. L. Senad.
For the Respondents : Shri. Adv. B. R. Waghamare.



Presented on 24. Sep. 2025
Registration on 24. Sep. 2025
Decided on 8. May. 2026
Duration 0 Ys, 7 Ms, 14Ds

Misc. Civil Appeal No.286 of 2025.

CNR No. MHNG010121912025.

Arsing out of notice/order of eviction dated 25/08/2025.

Ashwin S/o Mohanlal Nabira,Appellant.
Aged about 54 Years, Prop. - Ramdeo
Automobile (Shop No.3),

R/o Plot No.16, Navjeevan colony,
Wardha Road, Nagpur - 44 00 15.

...V/s...

1. The Nagpur Municipal Corporation,Respondents.
Through its Municipal Commissioner,
Civil Lines, Nagpur.
2. Dy. Municipal Commissioner (Estate),
Nagpur Municipal Corporation,
Civil Lines, Nagpur.
3. Abhyankar Smarak Trust,
A Registered Public Trust Through its
Trustees, Plot No.103, Agyaradevi Square,
Subhash Road, Nagpur.

Appearance :

For the Appellant. : Shri. Adv. Y. B. Sawal.
For the Respondents : Shri. Adv. G. A. Kunte.



Presented on 25. Sep. 2025
Registration on 25. Sep. 2025
Decided on 8. May. 2026
Duration 0 Ys, 7 Ms, 13Ds

Misc. Civil Appeal No.288 of 2025.

CNR No. MHNG010122442025.

Arsing out of notice/order of eviction dated 25/08/2025.

Sou. Shobha w/o Girijashankar Agrawal,Appellant.
Aged about 72 Years, Prop - Aryan Gas Agency
(Shop No.13).
R/o Flat No.702, 7th Floor, Tatva Building,
Canal Road, Ramdaspath, Nagpur - 440010.

...V/s...

1. The Nagpur Municipal Corporation,Respondents.
Through its Municipal Commissioner,
Civil Lines, Nagpur.

2. Dy. Municipal Commissioner (Estate),
Nagpur Municipal Corporation,
Civil Lines, Nagpur.
3. Abhyankar Smarak Trust,
A Registered Public Trust Through its
Trustees, Plot No.103, Agyaradevi Square,
Subhash Road, Nagpur.

Appearance :

For the Appellant. : Shri. Adv. Y. B. Sawal.
For the Respondents : Shri. Adv. G. A. Kunte.



Presented on 1. Dec. 2025
Registration on 5. Dec. 2025
Decided on 8. May. 2026
Duration 0 Ys, 5 Ms, 7Ds

Misc. Civil Appeal No.348 of 2025.

CNR No. MHNG010156252025

Arsing out of notice/order of eviction dated 25/08/2025.

Rajendra Tukaram Shinde,Appellant.
Aged about 60 Years, Occ. Retired,
Res. : House No.999, Near Chitnavis Wada,
Zenda Chowk, Mahal, Nagpur - 440032.

...V/s...

1. The Commissioner,Respondents.
Nagpur Municipal Corporation,
Civil Lines, Nagpur.
2. Dy. Municipal Commissioner (Estate),
Nagpur Municipal Corporation,
Civil Lines, Nagpur.
3. Abhyankar Smarak Trust,
Through its Trustees,
Dhantoli, Nagpur.

Appearance :

For the Appellant. : Shri. Adv. B. R. Waghmare.
For the Respondents : Shri. Adv. G. A. Kunte.



Presented on 1. Dec. 2025
Registration on 5. Dec. 2025
Decided on 8. May. 2026
Duration 0 Ys, 5 Ms, 7Ds

Misc. Civil Appeal No.349 of 2025.

CNR No. MHNG010156242025.

Arising out of notice/order of eviction dated 25/08/2025.

Maharashtra Gandhi Smarak Nidhi GranthalayAppellant.
Ani Vachnalay Through its member,
Vikas Prabhakar Petkar,
Aged about 55 Years, Occ. Business,
Res. :- Ganesh Peth, Subhash Road, Nagpur.

...V/s...

1. The Commissioner,Respondents.
Nagpur Municipal Corporation,
Civil Lines, Nagpur.
2. Dy. Municipal Commissioner (Estate),
Nagpur Municipal Corporation,
Civil Lines, Nagpur.
3. Abhyankar Smarak Trust,
Through its Trustees,
Dhantoli, Nagpur.

Appearance :

For the Appellant. : Shri. Adv. B. R. Waghmare.
For the Respondents : Shri. Adv. G. A. Kunte.

**Appeal against order U/Section 81-F of the Maharashtra
Municipal Corporation, 1949.**

COMMON JUDGMENT

[Delivered on 8th May 2026]

1. Appellants in MCA No.271, 277, 282, 285, 286, 288, 348 and 349 of 2025 filed their respective appeals against the notice/order of eviction date 25/08/2025 passed by the Deputy Commissioner (Estate), Nagpur Municipal Corporation U/Section 81-F of the Maharashtra Municipal Corporation, 1949.

The common facts which give rise to these appeals are as under :-

2. Appellants are tenants of the premises which are in their respective possession situated at plot No.103 near Aagam Devi Square, Subhash Road, Nagpur. Respondent No.1 is Nagpur Municipal Corporation and Respondent No.2 is Deputy Commissioner Estate and Respondent No.3 is a Public Trust registered in the name Abhyankar Smarak Trust. Respondent No.3 is the landlord of appellants.
3. The building or premises in possession of the appellant have been rented to them by respondent No.3 to conduct and run their business activity. The appellants occupied their respective premises since long and they are doing their work or business in the said premises for years together. They are paying the rent to respondent No.3 trust regularly. There is no dispute between the appellants and Abhyankar Smarak Trust regarding the tenanted premises. Appellants are in possession of their tenanted premises from 25 to 40 years.
4. On 31/03/2023 respondent No.2 issued show cause notice to tenants of Abhyankar Smarak Trust under Section 81-B(2) of the Maharashtra Municipal Corporation Act, 1949. The reason mentioned in that notice was that lease of the premises which was given to Abhyankar Smarak Trust had been expired and the premises are unauthorizedly occupied by the appellants. Appellants informed their

landlord i.e. respondent No.3 Trust about the notices received by them. The civil suit filed by respondent No.3 Trust bearing RCS No.7 of 2017 Abhyankar Smarak Trust..vs...NMC is pending before the Court and the suit is in respect of the properties in possession of the appellants.

5. Appellants replied notices dated 31/03/2023 and raised objections. In the reply NMC was informed about the pendency of suit instituted by respondent No.3 Trust in respect of the premises about which notice was given. Appellants are legal tenants of Abhyankar Smarak Trust and the land was given to Abhyankar Smarak Trust by the authority on permanent basis by following due procedure of the law.
6. On 25/08/2023 respondent Corporation issued another show cause notice to the appellants under Section 81-B(2) of the MMC Act. Said notice was issued after 56 years directing appellants to remain present in the office of respondent No.2 for hearing. Appellants remained present before the authority and informed him about the pendency of civil suit. Respondent No.2 was requested to supply copy of all the documents and give time to file reply. Appellants also requested for getting the regulation framed under Section 81-I of the MMC Act. They also sought permission to lead evidence without giving them opportunity of hearing and without following due process of law. The respondent No.2 passed order. The grounds cited in the notice as per MMC Act were not applicable to the facts of this case. The respondent Corporation issued show cause notice dated 06/09/2023 to remain present on 08/09/2023 but no hearing was given to the appellants. Another notice dated 06/03/2025 was issued by Executive Engineer of Estate Department to which appellants replied. On 25/08/2025 respondent No.2 issued notice/order of

eviction under Section 81-B(1) of the MMC Act. In the said notice it was alleged that hearing was given to Abhyankar Smarak Trust on 12/03/2025. Said order was issued to the Trustee of Abhyankar Smarak Trust and copy of the same was forwarded to all the tenants. The appellants are challenging this order on various grounds. Most of the grounds are common in all appeals.

7. As per applicant notice dated 25/08/2025 was issued in contravention of principle of natural justice and with malicious intention. The respondent No.2 did not act like quasi judicial authority. His conduct in the case was not neutral and with bias passed impugned order. Respondent No.2 issued notice without application of mind and without giving opportunity of hearing to the tenants. No opportunity given to lead evidence to the appellants. In the impugned notice the reason given was in public interest. Detail plan or scheme of such public interest is not given in the notice. After expiry of lease in 1967 no steps were taken to take possession of the property and Corporation allowed respondent No.3 to erect building. Hence, by principle of estoppel the appellants are the lawful tenants of respondent No.3 Trust and they cannot be evicted by the Corporation. The impugned notice is illegal and bad in law. The provisions of Section 53(1) of MRTP Act requires notice before eviction such notice was not given to the appellant. Assistant Commissioner of Corporation is not delegated with the powers to issue notice. Hence, notice is without authority and it is liable to be quashed. Hence, appellants prayed that notice dated 25/08/2025 under Section 81-B(1) of MMC Act be quashed and respondents be directed to maintain status quo.
8. Respondents in their say to all the appeals filed composite reply

submitted that the appellants have no locus to dispute the proceeding carried out by respondents No.1 and 2 as there is violation of provisions of MRTTP Act as well as MMC Act. The appellants have no relationship with respondent NMC such as lessee or tenant. Appellants are unauthorized occupants of the land owned by NMC situated in City Survey No.103 of Mauza Nagpur admeasuring 15000 sq. meters. There is lease agreement between NMC and appellants, hence, appellants cannot challenge the order dated 25/08/2025 which is passed after due procedure of the law. Respondent No.2 in his order had made detail observation and after granting opportunity of hearing the appellant failed to establish their case, hence, they are not entitled for any relief.

9. The lease for the charitable purpose was given to respondent No.3 on 17/11/1937 which expired on 16/11/1967 and thereafter there is no renewal of lease at any point of time. No document are placed on record by appellants or respondent No.3.
10. There is violation of basic condition of lease dated 17/11/1937 i.e. condition No.1(a)(b)(c) and 3 of the lease deed. The lessee had not paid the nominal yearly rent of Rs.1/-. The sanction of NMC was not taken at the time of erection of the building or structure on the site. As there is no lease agreement in force the status of appellants and respondent No.3 on the premises is that of encroacher. The appellants have no right to challenge the impugned order dated 25/08/2025.
11. The construction erected on the property is contrary to the provisions of law and such construction are erected without sanction from the NMC. The respondent No.3 has changed the user of property by converting the trust property into commercial one and no permission was sought for the same. The appellants in all the appeals are tenants

of respondent No.3 and they cannot claim as lessee of the property. The capacity of appellants is only occupier of the property in dispute and their possession was not with approval of the NMC. Therefore, the proceeding under Section 81(b)(1)(2) of MMC Act comes into force. Appellants filed copy of Sadan in which name of Nagpur Municipal Corporation is appearing as the owner of the property and rights of respondent No.3 are that of 'Imala Malak and Pattedar'. There is essence of further lease deed and there is no explanation on the part of appellants for producing lease indenture after expiry of lease on 16/11/1967. They are claiming the protection after 58 years of expiry of lease which cannot be granted. The land in dispute is owned by Nagpur Municipal Corporation and it is required for public purpose. The appellants in collusion with respondent No.3 are trying to drag NMC into unnecessary litigation resulting loss to NMC and project for public purpose cannot be proposed or proceeded.

12. The documents filed by the appellants in their respective appeals show that the premises in possession of the appellants were used for commercial purpose wherein the lease which is already lapsed was given for charitable purpose.
13. Respondent No.3 is registered public trust bearing registration No. E-22-N registered on 20/10/1961. The trust is required to transfer the property or lease it with permission of the charity commissioner. No document showing such permission is filed on record. The buildings erected on the premises were without sanction of the Municipal Corporation. In lease deed dated 17/11/1937 there is no condition of letting out the premises on rent and same is not permissible as per the agreement.
14. The appellants are taking shelter of pendency of RCS No.7/2017 in

which no stay is granted against the respondents No.1 and 2. Appellants is not a party there. In absence of any restraining order pendency of suit is no bar for the respondents No.1 and 2 to initiate action under Section 81-B of the MMC Act.

15. The property in dispute is having prime location in the heart of city, having highest market value and can be utilized for public project in the interest of public at large. If the property is dragged in unnecessary litigation it may result in financial loss to the NMC and delay the project. It is settled position of law that occupier of the Government property cannot claim proprietary rights and such land is held in trust for public good and no private individual can claim any right in it. Respondents denied all adverse allegation made in appeal and prayed for dismissal of the appeals.
16. Respondent No.3 Abhyankar Smarak Trust appeared in MCA No.222 of 2025 and submitted its reply. As per respondent No.3 it is a registered public trust. The shop mentioned in appeals are rented so appellants by respondent No.3 since long. There is no dispute between respondent No.3 and its tenants. The trust filed RCS No.7 of 2017 against NMC which is pending before the Civil Court. The appellants duly replied the show cause notice. The trust also replied the show cause notice given by NMC dated 31/03/2023 in detail. Nagpur Municipal Corporation had given lease for the land for 30 years on 17/11/1937. The lease deed consist of renewal clause. The Municipal Committee which was existence at that time granted requisite sanction for construction of the buildings and accordingly respondent No.3 made construction. The respondent No.3 is in possession of the property on 17/11/1937.
17. The Collector of Nagpur who is acting on behalf of State of

Government has allotted the above mentioned property to the Trust situated at Ganeshpeth Nagpur on permanent basis at the rent of Rs.1/- per year with effect from 05/12/1978 which is evident from 'K' prat which is duly signed on behalf of the Collector which also shows that land has been granted to respondent No.3 on permanent basis. The entry in respect of this property has been recorded in the office of Deputy Charity Commissioner Nagpur as a Trust property in Schedule-I registered which is maintained in the office of Charity Commissioner. Respondent No.3 is virtually the owner of the property and he is paying taxes to NMC regularly without default. Respondent No.3 prayed that the notice is illegal and hence, appeals may be allowed.

18. 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 No.2 passed order dated 25/08/2025 by following due process of law ? Yes.
2.	Whether the notice issued by respondents dated 25/08/2025 is legal ? Yes.
3.	Whether appellant is entitled for relief claimed ? No.
4.	What order ?	...Appeal is dismissed as per final order.

REASONS

As to the points no. 1 and 2.

19. Learned Counsels for the appellants argued their respective appeals.

The common points of argument are that the Abhyankar Smarak Trust is occupying this land since 1937 as a lessee. As per lease the Abhyankar Smarak Trust is authorized to make construction over the plot. The appellants are lawful tenant of the premises and they are doing there business in the premises given to them. One of the tenant occupying the land is a School in which number of student are taking education. If Corporation has demolished the building then the future of students will be affected. Other Appellants are doing their respective businesses and their bread and butter is earned by doing business over this plot. The possession of the appellants is since last 30 to 50 years. They are paying rent to the respondent No.3 Trust. The documents filed by Abhyankar Smarak Trust i.e. Sanad clearly shows that the Abhyankar Smarak Trust is permanent pattedar of the plot and just erected over the plot are owned by the Trust. Nagpur Corporation is the owner of the plot. The Collector had issued the Sanad in favour of Abhyankar Smarak Trust. In such circumstances Nagpur Municipal Corporation has no right to claim possession over the plot.

20. NMC has claimed that the property is required for public purpose. The purpose for which the plot is required is not specifically stated by the NMC. Even the development plan is not filed before the Court to show that the plot is really needed for development purpose. In the notice such purpose is to be mentioned. If it is not mentioned then the Corporation cannot evict the lawful tenant or lessee from the disputed site. The counsel relied various case law of Bombay High Court reported in **2024(6) Bom.C. R.1 Karansingh Shivsingh Gill..vs...Nashil Municipal Corporation**. In this authority it is held that order of eviction under Section 81-F of the MMC Act does not record

any reason for ordering eviction of the petitioner. Power exercised by authority of Corporation is quasi judicial mandating reason to be recorded. Even if it is accepted that power was purely administrative order may not contain reason. It is necessary to demonstrate from material including file noting, that there were reason and action was not illegal or arbitrary. Findings of District Court in absence of any ground of unauthorized occupation as ground of eviction specified in show cause notice holding order of eviction for reason that petitioner are in unauthorized occupation and thereby supporting requirement of the premises in public interest is legally unsustainable. It is argued that in view of this authority the action of Corporation is illegal and bad in law and the notice dated 25/08/2025 be quashed and set aside.

21. Learned Counsel for respondents No.1 and 2 submitted that the Abhyankar Smarak Trust was given the plot on lease on 17/11/1937 for 30 years by then Municipal Council, Nagpur. The lease period was over on 16/11/1967. Thereafter the lease was not extended by both the parties. The Abhyankar Smarak Trust had to pay the yearly premium of Rs.1/- towards the lease. The Trust did not pay the amount of lease to the Corporation at any time. The trust was allowed to make construction for the purpose for which lease was given with the sanction of the Corporation. The Trust made construction without sanction from the Corporation and rented it for commercial purpose. The Trust is earning money from the plot and land is used for the purpose other than the aims and objects of the trust. The Abhyankar Smarak Trust is not having any right over the property as the lease of the property expired before 58 years. The Abhyankar Smarak Trust has filed the copy of Sanad showing it to be

permanent pattedar but no order of the State Government is filed on record. The lease can be given by the NMC who is the owner of the property with prior sanction from the State Government. The entry in Sanad is not as per law and such entry was made without notice to the NMC. The purpose for which the NMC required plan is public purpose and the appellants who are not having any status cannot challenge the notice as per Section 81-B of MMC Act. The status of appellants is that of trespassers and no right can be claimed by them. He relied upon the authorities in case of a] *Saroj Screens Pvt....Vs...Chanshyam(2012)11SCC*, b] *Narbheramji Ramsnehi...vs...Vivekramji Ramsnehi, AIR 1239 BOM 425*, c] *Ramchandra Jivatram Chetwani....vs....PMC, 2013(1) Mh.L.J.,245*, d] *Muslim Library..vs...City of Nagpur Corporation W. P No.6744/2022, Dated 25.07.2023 (Bombay High Court Nagpur Bench)*, e] *Muslim Library....vs...City of Nagpur Corporation, Misc. Civil Appeal No.198/2022, Dated 18.10.2022 (Passed by this Court)*. He prayed for dismissal of the appeals.

22. Learned Counsel for respondent No.3 argued that the Collector has issued Sanad showing the respondent No.3 Trust permanent pattedar of the property which is in possession of the respondent No.3. Thereafter the Charity Commissioner had taken entry in respect of said property in Schedule-I registered. When Charity Commissioner declared it trust property Corporation has no right over it. To increase the income of the trust, trust has given some part fo the property to tenants. Hence, the possession of appellants on that property is legal. The respondent No.3 trust is paying the Municipal Tax of the property to respondent NMC and NMC never complained about the construction. The civil suit for declaration and injunction is filed by

respondent No.3 trust bearing RCS No.7 of 2017 against respondent No.1 and 2. Pending that suit respondent No.1 and 2 cannot disturb the possession of appellants and respondent No.3. The notice issued by the respondents No.1 and 2 is illegal and prayed for rejection.

23. The power to evict person from the premises of Corporation are given under Section 81-B of the MMC Act. The person who is in authorized possession of the property belonging to Corporation can be evicted if he has not paid rent or taxes for the period of two months or sublet contrary to terms and conditions of these agreement or committed an act of waste which likely to diminish the value of the property or committed breach of the lease agreement. If any person is in unauthorized occupation of the property of the Corporation he can be removed by giving notice. Here the notice is given by the Deputy Commissioner respondent No.2 to appellants. So the question is whether the appellants are in authorized possession of the property.
24. The appellants are claiming possession as tenants of respondent No.3 Abhyankar Smarak Trust. Abhyankar Smarak Trust was lessee of the property from 17/11/1937 to 16/11/1967. Thereafter there is no extension of the lease. It is also not disputed by respondent No.3 that the nominal rent of Rs.1/- was not paid by it at any time till today. As there is no extension of lease agreement from last 58 years then in such circumstances respondent No.3 trust cannot be said to be a lessee of the property. Respondent No.3 is claiming to be a permanent pattedar of the property. The trust has filed the copy of the Sanad issued by the Collector Nagpur. On the basis of which document such entry was taken in property card this fact is not stated by the respondent No.3. There is no term permanent pattedar in Maharashtra Land Revenue Court. The lease of the property can be

given by the Corporation for the period of 30 years with sanction from the Government. In authority relied by respondents No. 1 and 2 ***Saroj Screens Private Limited ...vs...Ghansham and Ors.(2012)11 SCC 434***, Hon'ble Supreme Court held that for renewal of lease of publicly owned land by the authority the procedure given in the law should be strictly followed. The lease has to satisfy test of reasonableness, equality and fairness. In authority of ***Narbheramji Gyaniramji Bamsnehi..vs..Vivekramji Bhagatramji Ramsnehi, AIR 1939 Bombay 425***, In this authority it is held that Sanad granted under Section 133 of MLR Court is not document of title. Considering the ratio laid down in these authorities the entry in Sanad showing permanent pattedar to respondent No.3 trust is not conclusive proof of being lessee. If lease is not renewed then the possession of respondent No.3 trust over the property becomes unauthorized. The respondent No.3 took entry in Schedule-I maintained by Charity Commissioner cannot convert the property belonging to NMC into the trust property. Whether Charity Commissioner has conducted inquiry before taking entry in Schedule-I in respect of suit property. Whether notice was given to NMC in respect of such inquiry. All these facts are to be established before claiming right over the property belonging to Corporation. The respondent No.3 trust has not taken steps in RCS No.7 of 2017 till today. There is no declaration in favour of respondent No.3 given by Civil Court about the rights in suit property. Hence, in my view respondent No.3 is not in authorized possession of the property and its tenants cannot be said to be authorized possession of the property and their status is that of trespassers.

25. As per the condition of the lease given to the Abhyankar Smarak Trust the property was to be used for Charitable purpose. The

erections are to be made on the property with sanction and consent from the N.M.C. State government. Respondent No.3 trust has not brought any evidence on record showing that it is using the property to satisfy the aims and objects of the trust. Moreover, it has given the property to tenants for earning income. Automobile shop, Mutton shop and other Commercial establishment are run on the property. It is the objections raised by appellants that for what purpose the premises are required by Corporation this fact is not explained by them. If there is valid lease of the property and such lease is to be either terminated or not extended then such fact may be material. Person in illegal occupation or a trespassers cannot question the purpose for which land is required by the Corporation. Hence, ratio laid down in the authority of Nashik Municipal Corporation is not applicable to the facts of this case.

26. The notice is given to appellants under section 81-B of the M.M.C. Act. After giving notice the opportunity of hearing was given to appellants. They claimed to be tenant of the respondent No.3. As per the authority **2025 SCC Online Bom 131 Vivek Krushna Dode Vs. State of Maharashtra and Ors.**, the tenant cannot challenged the eviction notice given to landlords in respect of illegal construction. Here the respondent No.3 filed Civil Suit for declaration and injunction against N.M.C., but in last 9 years did not get any order of injunction. Admittedly, tenants were inducted without consent of the NMC. The construction was made without consent of the N.M.C. Lease had expired before 58 years. The entry in Sanad is not supported by any order of the competent authority of the State Government. In such circumstances in my view, there is no case made out for declaration that notice under section 81-B is illegal. Hence, I

answer point No.1 and 2 in the affirmative.

As to the point No.3 and 4.

27. As I have held that respondent Corporation proves that it requires premises for public interest. I further held that the notice of respondent No.2 dated 25/08/2025 is legal, hence, the appellants are not entitled for any relief claimed. So the appeal deserves to be dismissed. Hence, proceed to pass the following order.

ORDER

Misc. Civil Appeal Nos.271/2025, 277/2025, 282/2025, 285/2025, 286/2025, 288/2025, 348/2025 and 349/2025 are hereby dismissed.

Dictated and pronounced in open Court.

Date: 08/05/2026.

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

Case Argued on	06.12.2025
Judgment dictated on	08.05.2026
Transcription Ready on	08.05.2026
Order Checked and signed on	08.05.2026

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