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IN THE COURT OF 3rd JOINT CIVIL JUDGE JUNIOR DIVISION,
SANGLI.

(Presiding Officer :- Rohini S. Patil)

R.C.S. No. : 113/2007.

Exh. No. : 177.

1] Bapuso Baburao Chougule

Age – 67 years, Occu. – Transport and Travel agent,
R/o. – Inam Dhamani, Tal. Miraj, Dist. Sangli.

2] Sanjay Baburao Chougule,

Age – 61 yrs., Occu. – Job,
R/o. – Inam Dhamani, Tal – Miraj, Dist Sangli.

3] Kusum Baburao Chougule (Deceased)

..... **Plaintiffs.**

Versus

1] Shital Bhupal Khanjire,

Age- 62 Yrs., Occu. - Business,
R/o – Gulmohar Colony, Sangli.

2] Chandrakant Mallappa Ghevare,

Age – 84 Yrs, Occu. – Farm and Business,
R/o – Ankali Naka, Gaonbhag, Sangli.

3] Lata Rajkumar Chougule,

Age – 48 Yrs, Occ. – Business,
R/o. Inam Dhamani, Tal. Miraj, Dist. Sangli. **Defendants.**

Ld. Advocate for the Plaintiffs :- Smt. Vaishali Mane.

Ld. Advocate for the defendant no. 1 :- Shri. S. S. Doshi.

Ld. Advocate for the Defendant no. 2 :- Shri. V. J. Tamhankar.

Ld. Advocate for the Defendant no. 3 :- Shri. B. N. Kothawale.

J U D G M E N T

(Delivered on 16/07/2026)

The suit is filed for declaration that the present plaintiffs are the protected contractual tenants in the suit premise, mandatory injunction as to reconstruction of demolished premise and its possession to the extent of 139.40 Sq. Mtr and permanent injunction as to not to disturb their rights as protected tenant.

Brief facts of the case of the plaintiffs :-

02. The plaintiffs and the defendant no. 3 are the legal heirs of late Bapurav Yashvantrao Chougule and late Rajkumar Baburao Chougule. The defendant no. 1 is a purchaser of the suit property under the sale deed dated 26.10.2004, the defendant no. 2 is landlord's successor and the defendant no. 3 is widow of Rajkumar late Rajkumar. The suit concerns the commercial premise situated in Sangli Municipal corporation area CTS no. 58, CTS no. 58/1, admeasuring area of 132.40 sq. mtr. consisting of one storyed commercial structure. Originally, the premises had electricity and water connection and was used continuously for the commercial purposes.

03. The plaintiffs further stated that the original tenant of the suit property was late Baburao Yashwantrao Chougule and the Suit premise had been taken on tenancy for several decades ago for the Business purposes. The late Baburao regularly paid rent to the landlord and the Municipal Assessment and the business record also

reflected his occupation. After the Baburao died in the year 1977, the plaintiffs and the Rajkumar, became his legal heirs and they jointly inherited the tenancy rights in the suit premise. They have continued to be tenant of the defendant no.2 and paid rent regularly, which the landlord accepted for many years through cheques, demand drafts, money orders and registered post. According to the plaintiffs, tenancy continued by operation of law. According to the plaintiff they carried out various family businesses in the suit premise over the several years including oil and Commission agency, Furniture Showroom, Raj Travels and tourist company, Kokan Transport company and Raju's art businesses. According to the plaintiffs, these businesses changed over the time but the possession of the suit premise always remained with their family.

04. The plaintiff further alleges that on 26.10.2004, the defendant no. 1 in collusion with the defendant no. 2 signed a registered sale deed with false contentions in it. The defendant no. 1 had been a tenant since 1983 and was in exclusive possession of the premise. The plaintiffs contended that the clauses in the sale deed are false and inserted to defeat the lawful tenancy rights of the plaintiffs. Thereafter in 2006, the defendant no.1 allegedly started removing furniture and materials from the premise and obtained municipal permission for the construction and attempted to demolish the existing building. Upon learning these facts, the plaintiffs issued legal notice and thereafter Lata widow of Rajkumar, instituted RCS no 400.2006 seeking protection of their possession, in which the order of status quo was granted. However, the before the

order could effectively implemented the defendant no. 1 demolished the entire structure despite the plaintiff's objection and pending the court proceeding with the intention to extinguish their tenancy rights and taking exclusive position of the property.

05. The plaintiff contended that the demolition of building did not extinguish their statutory right of tenancy and that legal heirs of the original tenant, they continue to enjoy the protection of Maharashtra in Control Act. They therefore seek declaration that their lawful statutory tenant of the suit premise that the defendant no.1 has acquired no tenancy rights under the sale deed dated 26.10.2004. A mandatory injunction directing the defendant no.1 to reconstruct the demolished building and restore the possession to the plaintiffs and permanent injunction restraining the Defendant no. 1 from interfering with their tenancy right and creating any 3rd party interest in the suit property.

06. The defendant no. 1 filed written statement below Exh. 20 and denied all the material averments in the plaint and contended that the plaintiffs have suppressed true facts and have filed a suit without any legal basis. According to the defendant no.1, late Baburao Chougule was the only contractual tenant and after his death, the tenancy did not devolve jointly upon all the plaintiffs as alleged. It is specifically pleaded that the defendant no.3 never acquired tenancy right or was not carrying on any business in the premise and was unnecessarily joined as a party. He further asserts that after the death of Baburao and subsequently Rajkumar, the

plaintiff no.1 and 2 had discontinued the business and had virtually abandoned the premises. He also contended that he alone remained in the actual occupation and business openly and continuously and that no joint tenancy or joint possession of the plaintiffs existed. The defendant further stated that after due negotiation, the defendant no. 2 being the landlord lawfully executed registered sale deed on 26.10.2004 in his favor, after receiving full consideration. According to him, the sale was valid and was within the landlord's rights. He denies that the sale deed contains any false clauses or contentions or any fraud or collusion was practiced. It is his case that the plaintiffs were aware of the transaction, yet did not challenge it immediately. He also contends that neither the defendant no. 3 nor any of the plaintiff carried out any business after 1978 and that the plaintiffs have failed to establish the continuous tenancy or possession of the suit premise. He further contended that the structure had become old and dilapidated and dangerous, therefore the demolition was undertaken after obtaining requisite permission from the Sangli Municipal Corporation. He denies that the demolition was intended to defeat the plaintiff's right or that it violates any subsisting injunction. He also disputes the allegation that the plaintiffs were in possession when the structure was demolished. On the basis of these grounds, the defendant contended that the plaintiffs have no subsisting tenancy or possessory rights in the suit premise that they are not entitled, therefore they are not entitled for declaration, mandatory injunction or reconstruction of the building and therefore prayed that should be dismissed with cost.

07. The defendant no. 2, the original owner/landlord of the suit premise filed written statement below Exh. 33 denying all the allegations made in the plaint and put plaintiffs to strict proof of every averment. At the outset, the defendant no. 2 raises preliminary objection that the suit suffers from mis-joinder of parties that no substantive relief has been claimed against the defendant no. 2 and the suit is barred by the limitation. It is contended that the plaintiffs have suppressed the material facts and the suit has been filed without any legal or factual basis.

08. According to the defendant no. 2 the original tenant Baburao Chougule was carrying on business in the suit premise. During his lifetime, his sons were not conducting business jointly with him. Around 1977, Baburao started an independent Commission agency business in the name of M/s. Baburao Yashwant Chougule and thereafter plaintiff no.1 and 2 separately commenced their own businesses elsewhere. Consequently, the business in the suit premise remained under the exclusive control of the Baburao. After the death of Baburao in the year 1978, his son Rajkumar alone continued the business and remained in exclusive possession of the suit premise as a tenant. The other plaintiffs neither carried on business in the premise nor exercise any tenancy rights and therefore they never acquired any joint tenancy or possessory rights. He further states that all rent receipts, municipal records and other tenancy records consistently recognized only Baburao and thereafter Rajkumar and never the other plaintiffs as a tenant. In fact, the tenancy was terminated after 1983.

09. The defendant no. 2 further states that after the death of Rajkumar, the defendant no. 2 lawfully dealt with the property by executing registered sale deed dated 26.10.2004 in favor of the defendant no.1 for the valuable consideration. Before the sale, the old building had been dilapidated and unsafe and after obtaining the requisite permission from the Municipal Council, the old structure was demolished and new three stored build was constructed. The defendant no. 2 denies any fraud, collusion or concealment in execution of sale deed and asserts that the plaintiffs were aware of these developments, but did not raise any timely objection. It is specifically pleaded that the plaintiff no. 1 and 2 had no subsisting tenancy or the defendant no.1 is lawful purchaser and owner in possession and therefore the plaintiffs are not entitled for the any declaration, injunction or any other relief. The defendant no. 2 accordingly prayed for dismissal of suit with cost.

10. The defendant no. 3 appeared, however did not file written statement, hence by the order below Exh. 01 suit proceed without her say.

11. The plaintiff in support of his contention filed his evidence affidavit below Exh. 60 and relied upon the documentary evidence i.e. the information received through RTI application including verified copies of form A to form E below Exh. 61 to 68, original copy of form XI below Exh. 69, original copy of assessment order dated 18.10.1979 below Exh. 70, notice issued under section 58 (2) of the Estate Duty Act, 1953 below Exh. 71, original copy of acknowledgments of business transaction below Exh. 72 and Exh.

73, verified copy of form A below Exh. 74 and 75 respectively, original challan in respect of payment before the Shop Inspector Sangli below Exh. 76 and Exh. 77, Shop Act license of Raj Travels below Exh. 78, form II-A for the business Raj Travels and tourists below Exh. 69, original copy of Shop Act license of Raju Arts below Exh. 80, a verified copy of sale deed between the defendant no. 1 and 2 below Exh. 81, a notice issued under the instruction of the plaintiff no. 2 dated 26.05.2026 below Exh. 82 and the postal receipt and acknowledgment of the same below Exh. 83, reply notice by the defendant no. 1 dated 05.06.2006 below Exh. 84, a office copy of the application submitted by the plaintiff no. 1 under RTI Act below Exh. 85, a notice sent to the defendant no. 1 on 25.01.2007 below Exh. 86, reply notice by the defendant no. 1 dated 29.01.2007 below Exh. 87, a paper publication dated 29.01.2007 below Exh. 88, rent receipts below Exh. 89 to Exh. 130, a bond in respect of partnership firm below Exh. 131, documents obtained through RTI in respect of business Kokan Transport Company below Exh. 132, a verified copy of plaint bearing no. RCS 400/2006 below Exh. 157, a verified copy of application under Order 39 Rule 1 & 2 of CPC and order passed thereon in RCS no. 400/2026 below Exh. 159, an application filed under Order 23 Rule 1(3) of CPC and order passed thereon and say filed to such application by the defendants in RCS no. 400/2006 below Exh. 158 and Exh. 160. Thereafter the plaintiff closed their evidence vide purshis below Exh. 167 and 171 and the defendants no. 1 closed his evidence vide purshis below Exh. 169 and Exh. 172. The evidence of rest of the defendants was closed by the order passed below Exh. 1.

12. After considering rival pleadings of both parties, following issues were framed by Ld. Predecessor of this Court which were recasted and additional issues on Exh. 34 , to which I have recorded my findings along with reasons as under-

Sr. No.	ISSUES	FINDINGS
1.	Whether the plaintiffs prove that they are contractual tenants in the suit property through their father for the area admeasuring 139.40 sq. mtr. till December 2006, and they are protected tenant in the suit premise as per the provisions of the Maharashtra Rent Control Act ?	No.
2.	Whether the plaintiffs prove that the defendant no. 1 has illegal and purposefully dismantle the portion in possession of the plaintiffs as a tenant ?	No.
3.	Whether the plaintiffs prove that the plaintiffs are entitled for the tenancy rights in the newly constructed property ?	No.
4.	Whether the defendants prove that the tenancy right of the plaintiff is terminated in the year 1983 ?	No.
5.	Whether the plaintiffs are entitled for declaration as prayed ?	No.
6.	Whether the plaintiffs are entitled for relief in cl. 18 (c)?	No
7.	Whether the plaintiffs are entitled for the permanent injunction as prayed?	No.
8.	Whether the suit is barred under O.2 R. 2 of CPC?	No.
9.	Whether suit is within limitation?	No.
10.	What order and judgement?	As per final order.

: REASONS :

13. The present Plaintiffs have filed written notes of argument below Exh. 175 and also orally argued that, tenancy cannot presume to have come to an end merely because the original tenant is dead. In absence of cogent evidence of lawful surrender or termination of tenancy, the tenancy continues to subsist. In the present case, the plaintiffs have time to time sent rent to the defendant and he has accepted it. So also, the plaintiffs have run their various businesses in the suit premise till its demolition and the defendants have failed to establish by reliable evidence that the plaintiffs have surrendered their tendency or their tenancy was lawfully terminated. Consequently, the plaintiffs continued to be a protected tenant and they are entitled to the tenancy right as claimed in respect of reconstruction of premise and other relief.

The plaintiff also relied upon the judgments of Hon'ble Apex Court and various High Courts, which are as under :-

1. Gyan Devi Anand VS Jeevan Kumar (1985) 2 SCC 683, where in it has been held that the statutory tenancy is heritable, after the death of original tenant tenancy rights devolves upon the legal heirs.
2. Vidyadhar VS Manikrao & Ors., 1999 SC 1441, wherein it has been held that if the parties are having special knowledge of the facts abstain from entering in the witness box, the court may draw adverse inference under section 114(g) of Indian Evidence Act.
3. Chowdamma (D) by LR VS Venkatappa (D) by LR's, 2025 SC

792, held that if it is the decision related to succession to tenancy, you can rely on it to reinforce that : tenancy rights are statutory and succession under rent act prevails. Continuous occupation and business establishes lawful succession.

4. Gopal Krishnaji Ketkar VS Mohammad Haji Latif & Ors., AIR 1968 SC 1413, wherein it has been held that when the best evidence is in possession of one party and the party withholds the adverse inference can legitimately be drawn.
5. Nair Service Society Ltd., VS K.C. Alexander & Ors. AIR 1968 SC1165 held that, long and settled possession deserves legal protection. A person in settled possession cannot be dispossessed except by due procedure of law.
6. Shri Chimanappa VS Corporation of the City of Bangalore, AIR 2005 Karnataka High Court laid down the principles to prove the possession, through business record, municipal entries, licenses, rent payment.
7. Shri Inacio Martin Thr. LR's VS Narayan Hari Naik & Ors. AIR1993 SC 1756 and State of Maharashtra & Ors. VS National Construction Company, Bombay this authority appears to concern appreciation of documentary evidence and burden of proof.
8. Gajanan R. Salvi VS Satish Shankar Gupte & Ors, AIR 2004 Bom. 455 held that, Shop Act licences, municipal assessment, rent payment and continuous business are corroborative evidence of tenancy.
9. Shaha Ratansi Khimji & Sons VS Kumbhar Sons Hotel Pvt. Ltd., & Ors., (2014) 14 SCC 1: (2015) 1 SC (Civ) 186 : 2014 SC 557

held that this decision explains appreciation of admission and documentary evidence.

14. Whereas the defendant no. 2 argued that there is no document on record to prove the fact that the suit property was tenanted in the year 1979. The plaintiff has not produced convincing documentary evidence showing the tenancy continued after 1983. The evidence of the plaintiff contains several admissions regarding the lack of knowledge about the reconstruction, allotment of new premises and subsequent events. The defendant during his cross examination has brought on record evidence in respect of termination of tenancy and subsequent redevelopment. The plaintiffs have failed to establish any enforceable right in the reconstructed premise therefore in view of the judgment cited by the defendant and the argument advanced that the present suit is bad in law. So also, in view of provision i.e. Order 2 Rule 2 of CPC bars this suit as earlier suit was instituted by the defendant no.3 being one of the legal heirs of the deceased Babusaheb Chougule which was dismissed. Therefore, in view of above arguments the present suit be dismissed.

The defendant in support of his contentions relied upon the following citations

1. Homi Jamshedji Khansaheb & Ors. VS Chandrakant Atmaram Lamage & Ors., 1984 Mh.L.J. 719 held that, in this case the Hon'ble Bombay High Court briefly described who can be a tenant for the availability of protection under the amended section 5 (11)(c) of the Bombay Rents, Hotels and Lodging

House Rents Control Act, one must be a member of family during the subsistence of tenancy. A person in order to get protection under the amended section must have a valid claim that the claim must be he is a member of a family of a tenant on the date on which tenant died and also that he was residing with the set tenant on the latest. Any person putting forth a claim cannot be said to be covered by the provision. The claim must be a valid capable of being judicially verified and it is only when a claim is found as one justified under section under the sets section that we will be entitled to continue in possession of the premise in question as a tenant.

2. In case of Gajanan R. Salvi VS Satish Shankar Gupte & Ors., 2005 (1) Mh.L.J. 966 wherein it has been held that, bar of Order 2 Rule 2 of CPC is what is to be seen is whether the foundation in previous suit as well as the present suit is one and same - mere comparison of the reliefs or variance in few allegations here or there would have no relevance. Earlier the suit for injunction was dismissed for default subsequent suit for specific performance and possession dash Bar are under order to rule to appeal.
3. In the case of Smithkline Beecham Consumer Healthcare GMBHY & Ors. VS Hindustan Lever Limited & Ors., 2002(1) Mh.L.J. 453, it has been that, the conduct of a litigant of not including all the grounds available to him on the subject in dispute in one suit and instituting several suits against the same parties on the same subject in dispute is an abuse of the process of the Court. The scheme of the Civil Procedure Code

is that a plaintiff should raise all the grounds available to him on the subject in dispute in his first suit. The Civil Courts do not have jurisdiction to try the suits, institution of which is contrary to the scheme of the Civil Procedure Code, which discourages repeated litigation on the same subject, between the same parties.

4. In case of State Bank of India VS Gracure Pharmaceutical Limited 2014 (4) Mh.L.J 808 wherein it has been held that, facts on the basis of which subsequent suit was filed existed on the date on which earlier suit was filed. Earlier suit was filed on 15th of March 2003 and subsequent suit was filed on 21st of May 2003. No fresh off cause of action arises in between first and second suit Closure of account was intimated on 20th March 2002 due to the alleged fault of respondent in regularizing their accounts that is after the non-payment of LC the account became a regular when the first suit is filed for the recovery of dues for Ali's relief damages sought in the subsequent suit could have also been sought for the respondent is not entitled to split the cause of action into parts by filing separate suit.
5. In case of state of Orissa and another VS Laxmi Narayan Das through LR's and others AIR 2023 SC 3425 2023 SC, wherein it has been held that, the principle of constructive resudicata dash applicability dash allotment of land to RBI was challenged and the allotment of land equivalent to the land given to the RBI was claimed in repetition dash earlier a civil

suit was filed claiming the similar relief that is to be declared owner of land by adverse position said suit was withdrawn with no liberty to file spa suit The applying the principle of constructive adjudicator, the repetition filed after the withdrawal of the civil suit was not maintainable moreover the material fact of filing civil suit was conceived petitioner is not entitled to any relief.

6. In the case of Rejendra Bansilal Chaudhar & Ors. VS Lilakant Madku Chaudhari & Ors., 2024(2) Mh.L.J. 131, it has been that, Right to succeed to commercial tenancy would crop up when person claiming protection under clause (ii) of section 5(11) (c) was using premises for purpose it was let Evidence proved that respondent No.4-mother of tenant was never using suit premises with deceased-tenant and respondent No. 2 had no occasion to run hotel in premises – Also recent photographs shows that suit premises had collapsed – Held, that Respondents had neither acquired statutory tenancy in suit premises nor were entitled to protection under section 5(11) (c).
7. In the case of Latika Sharad Joshi and another VS Additional Divisional Commissioner 2024(5) Mh.L.J. 313 It has been that, tenant meaning of dash definition of word tenant makes it clear that in relation to any premise when the tenant dies, whether the death occurs before or after the commencement of this act dash any member of tenant family where let for

residence is residing with tenant at the time of death or in absence of such member anywhere this is tenant would be treated as a tenant.

ISSUE No. 1 and 4 :-

15. The evidence related to these two points is connected to each other and therefore in order to avoid repetition of evidence and reasons, these are discussed together.

16. From the oral evidence and the documentary evidence, it emerges that several foundational facts are either admitted or not seriously disputed by the parties and those are as under -

Originally the suit properties are owned by the Mallappa Gheware. The predecessor of the plaintiffs and the defendant no. 3, late Baburao Chougule was tenant in the suit property. He was paying Rs. 200/- per month as rent and his name was recorded in the Municipal records. Subsequently, the Baburao passed away on 08.12.2978. The deceased Baburao had three sons namely Bapusaheb, Sanjay and Rajkumar. Out of them, Rajumar died on 28.12.2005. The widow of Rajkumar i.e. Lata filed earlier suit i.e. RCS no. 400.2006 for injunction to which the present plaintiffs were not party. It is also not disputed that the suit property was subsequently purchased by the defendant no.1 under the registered sale deed dated 26.10.2005. Thereafter the suit property was demolished and reconstructed.

17. The plaintiffs claimed that the late Baburao was running the business of oil and cattle food in the suit premise by the name

M/s. Baburao Yashwantrao Chougule. After his demise, Rajkumar was running the businesses of Raju Arts in the suit premise. After the demise of Rajkumar, Lata the plaintiff, in earlier suit continued the tenancy. But in this suit, the present plaintiffs have contended that the plaintiff no.1 and 3 were paying rents to the defendant no. 2, by cheques and drafts. After demise of Baburao, the plaintiff no.1 and 3 carried out the business of furniture showroom, and travel booking agency during the period 1983 to 1985. Thereafter in 1985, the plaintiff no. 1, 3 and the defendant no.1 along with other started the business of Kokan Transport Company in the suit premise. The controversy, therefore, is not regarding these foundational facts but regarding the legal effects of those facts on the continuous and succession of tenancy.

18. The present suit one for declaration, mandatory and permanent injunction. Therefore, under section 101 to 103 of Indian Evidence Act the initial burden lies upon the plaintiff to establish first that after the death of original tenant, they are legally succeeded tenancy and they continued to be in possession of the suit premise and that they continued the business from the suit premise.

19. Upon the perusal of evidence of the plaintiff it appears that the plaintiffs have claimed that the tenancy continued after the death of his father and all legal heirs of the deceased Baburao Chougule, became tenants and various businesses were continued in the suit premise. The plaintiffs remained in possession of the suit property till its demolition. However, during cross examination the

plaintiff no. 1 admitted that there are no rent recipes produced in his name and no rent receipts are produced jointly in favor of all legal heirs. There are neither municipal records support his case nor any tax record, electricity record to support his claim in respect of the continuance of business. No documentary proof to show all legal heirs are jointly inherited the tenancy. He further during cross examination denied the knowledge regarding license municipal records, assessment records, tax records, partnership business registrations, earlier litigation, succession etc. He even admitted that he cannot produce the documentary proof showing the continuous business after his father's death. Business license alleged allegedly exist but were never produce This creates serious doubt regarding the continuance of suit premise for the business as alleged in the evidence. He admitted that he has not produce any documentary evidence to show his oil and furniture business, paint business, transport business or any commercial activities etc.

20. It appears from the evidence on record that it is the defence of the defendant that the oral contentions of the plaintiff in respect of continuous use of suit premise for their business is not supported with any documentary evidence on record. Therefore, they cannot be treated as protected or contractual tenant.

21. Now before proceeding further with the appreciation of evidence; let's see the settled law in respect of protected/contractual tenancy. Under Section 7(15)(d) of the Maharashtra Rent Control Act, 1999, the protected tenancy does not automatically devolve upon every legal heir. The legal heirs claiming the succession must

establish he or she falls within the statutory definition of tenant. There are following facts ordinarily required to be proved :-

(i) original tenancy : the claimant must establish that the deceased was lawful tenant by producing rent receipts or lease agreement (if any), municipal or assessment records landlords admission or other tenancy document; (ii) Death of original tenant : by producing death certificate, legal health certificate or succession record; (iii) statutory qualification of the legal heirs : now, this is the most important aspect so far this case is concern. The claimant/ such person must prove that at the time of tenant's death, he or she satisfied the statutory requirement namely *first*, he was carrying business jointly with the tenant in case of commercial premise or otherwise satisfied specific condition prescribed under the Rent Control Act. *Secondly*, the claimant should establish that after the death of tenant, the possession was continued and rent was tendered and accepted; *thirdly* Business continued from the premise and the landlord recognized or dealt with the heirs as a tenant were relevant.

22. The Hon'ble Supreme Court (*in supra*) has consistently held that succession to tenancy is governed by the Rent Act and not by personal succession law. Every legal heir does not automatically become tenant unless statutory conditions are fulfilled. Now the crucial question before me is - *whether all plaintiffs inherited the tenancy after the Baburao's death ?*

23. The plaintiffs claimed tenancy rights by succession after the death of original tenant. Such claim is required to be examined

in the light of Section 7(15)(d) of Maharashtra Rent Control Act, which defines the expression tenant after the death of original tenant. The provision a clear distinction between the residential premise and premises laid for business, trade, education or storage. In the case of commercial premises, priority is given to the member of tenant's family who was using the premise for business, trade, education or storage with the tenant at the time of his death. Only in absence of such family member does the statute contemplate that and heir of the deceased tenant as may be decided by the court in absence of agreement would succeed the tenancy. The tenancy is a statutory right and transmission thereof is regulated by the special provisions of Maharashtra Rent Control Act.

24. Applying this principle to the present case, the plaintiffs were required to prove that after the death of Baburao Chougule, they fulfilled the statutory requirement for the transmission of tenancy. If the evidence is established that only one heir was actually carrying on business with the deceased tenant at the relevant time, the statutory tenancy ordinarily devolves upon such person. Conversely, if the evidence established that all the plaintiffs were jointly carrying on the business with the original tenant and continued the same after his death would be entitled to claim the protection under the provisions of law. The issue must therefore decide on the appreciation of evidence rather than merely on the basis of heirship.

25. The plaintiff no.1 stated that late Baburao Chougule was inducted as a tenant by original owner Late Mallapa Ghevare in the

southern portion of CTS no. 85 and 85/1. According to him, the two portions together ad-measuring about 139.40 sq. mtrs. contain a one storeyed commercial structure. This fact is not much disputed by the defendants also.

26. The plaintiff no.1 further stated that the late Baburao carried on commission agency business in oil, fodder and allied commodities from the suit premise. In support of these contentions, he submitted on record Form E submitted to the Shop Inspector during the period 1968 and 1969, below Exh. 62 to 68. These documents are of a period much prior to the present dispute and supports the assertion that the premise were commercially occupied by the late Baburao as a tenant. No shop Act licence of his business is filed on record, however the defendants in the notices as well as reply notices below Exh. 82 and 84, already admitted these facts.

27. Further according to the plaintiff no.1, after the death of Baburao on 03.12.1977, he continued the existing business for about two to three years. Thereafter, different businesses were conducted by the plaintiffs and late Rajkumar, in the suit premise under the name Lakshmi Traders, Raj Travels and Tourist, Kokan Transport and Raju Arts etc. He stated that such changes in the name and the nature of business did not amount to abandonment or surrender of tenancy. The plaintiff also referred to a partnership arrangement entered between the member of his family and Bhupal Khanjire. He has produced the partnership deeds dated 25.10.1984 and 24.10.1985 on record, however in photocopy is produced on record. Therefore, those documents couldn't be proved. The document

below Exh. 131 is not sufficient to show the existence of their partnership firm. The plaintiff also produced on record the Shop Act license and professional enrollment records below Exh. 78 and 79 respectively, to prove his contentions in respect of business name and style as Raj travels and tourist. He further to prove the continuance of business Raju Arts filed on record Shop Act licence dtd. 13.06.1996, below Exh 80.

28. The substance of plaintiff's evidence is that the partnership was the only business arrangement; possession of tenanted premise was never exclusively transferred to the defendant no. 1 or his predecessor and the tenancy rights of the late Baburao were never transfer or surrendered.

29. The plaintiff has further stated that rent continued to be paid after 1983 and for this contention, he relied upon the rent payments made through the cheques and money orders on different dates which are filed below Exh. 89 to 130. His evidence is that the landlord accepted such rent and never obtain any degree of eviction against the late Baburao or his successor.

30. According to the plaintiff continued Municipal Entries and acceptance of rent alongwith the business record establish that the tenancy remained subsisting through them jointly and was recognized even after the death of Baburao. In the cross examination, plaintiff admitted several transactions had taken place before he came actively involved in the business and that he did not

possess the personal knowledge of every entry in the municipal records, shop and licensing records. He was unable to state from his personal knowledge who prepares some of those document and what exact dates particular license were obtained. He also admitted many licensed and business records were not issued in his individual name. Certain documents stood in the name of late Baburao or Rajkumar and Raju Arts, Raj Travels and tourists or the partnership firms. He further admitted that he couldn't recollect the precise period for which every business was conducted. He even admitted that the plaintiff no.2 never had his business in the suit premise.

31. These admissions affect the weight of Plaintiff's oral assertion concerning the details of each transaction. His oral testimony alone cannot establish the content of public or business records which are which were not prepared in his presence. However, those admissions do not result in the complete rejection of those documentary record. The material events commence from the 1960 and 1970s. The evidence was recorded several decades later and therefore the inability to recollect every date or the process by which each public record was prepared is not unnatural. More importantly the plaintiff do not merely rely upon the plaintiff's memory the rely upon the contemporaneous documentary documents which must be evaluated independently according to their nature and proof.

32. From the evidence of the plaintiff and the documentary evidence as discussed above the foundational fact that the late

Baburao was an original tenant is proved. However, there is a distinction between the contractual tenancy originally created in favor of late Baburao and the statutory succession as a protected tenant claimed by his family members after his death.

33. The plaintiffs have not produced an independent lease deed other rent receipts showing that original landlord entered into a separate contractual tenancy with each plaintiff, after the death of Late Baburao. Therefore, it would not be accurate to hold that every plaintiff individually became a contractual tenant by a fresh agreement. What evidence proves is that the original contractual tenancy of late Baburao remained legally subsisting and after his death the question of succession becomes governed by the applicable rent legislation. Therefore, the expression in the issue that the plaintiff themselves remain contractual tenants till December 2006 requires qualification. The tenancy originated contractually in favor of late Baburao, his successor claims protection by operation of law and not necessarily under the fresh contract with the landlord.

34. For the premise to let for the business, trade or storage Section 7 (15)(d) of Maharashtra Rent Control Act, does not make every legal heir a tenant automatically. The first category is recognized by the provision is that the member of deceased tenant family who was using the premise for the business with a tenant at the time of his death. In the absence of such qualifying member and heir may be recognized in accordance with the statutory provisions and in case of disagreement and as determined by the court.

35. There is absolutely no evidence on record to show that any family member of the plaintiff was carrying on the business alongwith the late Baburao. Therefore, the first limb of Sec. 7(15) (D) of the Act is not applicable here. Now let's see what evidence is brought on record to show that the plaintiffs case falls in second category. The plaintiff stated in his chief that after the death of late Baburao, he continued the same business for two to three years. This evidence is supported to some extent by subsequent business records below Exh. 72 and 73 and licensing record Form E below Exh. 68 and Form XI below Exh. 69. Thereafter Shri Laxmi Traders by the widow of late Baburao and the plaintiff no. 1 as per Form A at Exh. 74 and Kokan Travels and Raj Travels and Tourist at Exh. 75 and 79 respectively. Lastly the business was carried out late Rajkumar by the name and style as Raj Arts and the Shop Act licence dtd. 13.06.1996 of the said business is at Exh. 80 It demonstrates the continuity of family business from the premise.

36. The PW1's evidence is that he or other family members immediately continued the existing business after the death of Baburao is relevant circumstance and thereafter various businesses were carried out in the same premises. Admittedly lastly the deceased Rajkumar carried out the business Raju Arts in the suit premise and record shows that he has paid rent of the suit premise for some period is already proved from the rent receipts filed on record. The statutory tenancy ordinarily be held to have vested with Rajkumar. There is no document on record to show that the present plaintiffs have carried out business in the suit premise alongwith the late Rajkumar or even after the death of Rajkumar. There is also no

evidence on record to show who succeeded to Rajkumar's statutory tenancy after his death. The concern therefore, is all legal has jointly remained in the statutory tenants became considerably weaker. Mere rent receipts itself, without recognition of landlord -tenant relation, do not confer the title on the plaintiffs as a tenant. Therefore, for the reasons recorded above the present plaintiffs cannot be considered as protected tenants. So also, upon the perusal of plaint in RCS no. 400/2006 it appears that the Lata, widow late Rajkumar and the defendant no. 3 in present case, raised the contention that she is a protected tenant in the suit premises through late Rajkumar and record shows that, the present suit is filed during the pendency of RCS no. 400/2006. In the said suit, the present plaintiffs have never raised any objection to such contentions of the Lata. Therefore, now by filing this suit the present plaintiffs can not claim themselves as protected tenant through late Rajkumar or late Baburao.

37. Similarly, the defendant no. 2 has not produced termination notice, surrender deed, possession receipt or eviction decree or any other document to show or infer that the tenancy was terminated in the year 1983. In fact, the documents on record shows that business activity was conducted in the suit premise after 1983, it probalises the continuation rather than termination. Therefore, for the reasons recorded above the judgments cited by the defendants are helpful to the case of the defendant than the judgments cited by the plaintiff in support of its contentions. Accordingly, I answer point no 1 against the plaintiffs and the point no.4 against the defendants.

ISSUE No. 2 :-

38. Unless the plaintiffs first establish lawful tenancy and possession, mere allegation of illegal demolition cannot succeed. In the case, the plaintiffs have not satisfactorily proved that the demolished portion was in their lawful possession as tenant before the demolition. The evidence does not conclusively establish illegal demolition of a tenanted portion. Therefore, I answer this issue in negative.

ISSUE No. 3 :-

39. The right to occupy the reconstructed premise is only the consequences of existing protected tenancy on the date of re development. This court already held that the present plaintiffs failed to prove continuing tenancy, no consequential right in the reconstructed premises can arise. Accordingly, I answer this issue in negative.

ISSUE No. 5 to 7 :-

40. These issues are related to each other and the findings recorded earlier in respect of issue no. 1 and 4. Therefore, in order to avoid repetition these are discussed together.

41. The plaintiffs have failed to establish a tenancy rights, the declaratory relief and subsequent consequential relief of

mandatory and permanent injunction cannot be granted. succeeded in proving the original tenancy, continuation of tenancy failure of defendants to prove the termination of tenancy. However, they have not proved that all the plaintiffs became statutory tenants. Accordingly, the declaration cannot be granted exactly in the manner spread Therefore I answer issue no. 5 to 7 in negative.

ISSUE No. 8 :-

42. It is settled law that, bar under Order 2 Rule 2 of CPC apply on the where the subsequent suit is founded upon the very same cause of action which had completely accrued on the date of institution of formal suit and the plaintiff omitted to claim the relief which then available. If the subsequent relief is founded upon the even occurred after the institution of suit earlier suit, such relief cannot be said to have arisen from the same cause of action.

43. In the present case RCS no. 400/2006 was instituted primarily seeking protection of plaintiff's possession (the defendant no.3) by way of permanent injunction. During the pendency of said suit, the suit structure came to be demolished and the plaintiff (the defendant no. 3) alleged the possession. These subsequent events gave rise to fresh and independent cause of action requiring the plaintiffs to seek the declaration of tenancy rights and consequential relief for the restoration of possession in the form of mandatory injunction. Such relief had not accrued on the date of institution of RCS no. 400/2006. Moreover, the order passed below Exh. 26 in

RCS no. 400/2006 at Exh. 158, the Ld. Predecessor already recorded the reasons that the proposed relief of declaration of tenancy and mandatory injunction constituted a different subject matter and a different cause of action. Though the liberty to withdraw the earlier suit was refused, this Court itself recognized that the subsequent cause of action was distinct, therefore the defendants have failed to establish that the present suit is founded upon the same cause of action which existed on the date of institution of RCS no. 400/2006. The essential ingredients of Order 2 Rule 2 are absent and therefore the suit is not barred by it. In result, I am of the opinion that, the citations submitted by the defendants supra are not applicable to the facts before me. For the reasons recorded above, I answer this issue in negative.

ISSUE No.9:-

44. The defendants contended that, the present suit is not filed within limitation as provided in section 6 of Specific Relief Act i.e. within 6 months after dispossession. However, the section 6 of Specific Relief Act specifically applied to the Summary recovery of possession for the unlawful dispossession from the suit property. This suit is filed for declaration that the plaintiffs are protected tenants, consequential injunction, restoration / recovery of possession. Since the suit is founded on declaration of tenancy rights and consequential possession the six months limitation will not apply. In result, I answer this issue in negative.

ISSUE No. 10 :-

45. In view of above discussion, I am of the opinion that the plaintiffs have failed to establish their claim of tenancy and therefore they are entitled for declaration and other consequential reliefs. Therefore, the present suit is liable to be dismissed with cost. In result, I proceed to pass following order-

ORDER

- 1] Suit is dismissed with cost.
- 2] Decree be drawn up accordingly.

Sangli
Date : 16/07/2026.

(Rohini S. Patil)
3rd Jt. Civil Judge Jr. Dn.,
Sangli.

CERTIFICATE

“I affirm that the contents of this P.D.F. file Judgment/Order are same word for word as per original Judgment/Order.

Name of stenographer :	Shri. S. A. Jamadar
Court Name :	Smt. R. S. Patil, 3 rd Jt. C.J.J.D., Sangli
Date of Order :	16/07/2026
Order signed by Presiding Officer on :	16/07/2026
Judgment/Order uploaded on :	16/07/2026