



ORDER BELOW EXH.18.

(CNR No.MHWS110011842025

**Mo. Kalim Mo. Kayyum & Ors. Vs. Municipal Council, Karanja Lad
Through Chief Officer, M.C., Karanja Lad & Anr.**

Present application has been filed by defendant No.1 under Order VII Rule 11 of the Code of Civil Procedure, 1908 thereby praying for rejection of plaint.

02) Perused application, say of plaintiffs at **Exh.20** and documents on record. Also heard learned advocate for defendant No.1. However, plaintiffs and learned advocate for plaintiffs were absent at the time of argument when called out. Therefore, the present application is taken up for passing order today itself as the same is pending since long.

03) Learned advocate for defendant No.1 has submitted that plaintiffs have filed present suit for declaration and perpetual injunction against defendants. It is further submitted that plaintiffs themselves averred in their plaint that they are tenants of defendant No.1 and they be declared as the tenants under the Maharashtra Rent Control Act, 1999. However, it is submitted that as per Section 3 of said Act, it is specifically provided that the said Act shall not apply to any premises belonging to the Government or a local authority or apply as against the Government to any tenancy, licence or other like relationship created by a grant from or a licence given

by the Government in respect of premises requisitioned or taken on lease or on licence by the Government, including any premises taken on behalf of the Government on the basis of tenancy or of licence or other or other like relationship by, or in the name of any officer subordinate to the Government authorized in this behalf; but it shall apply in respect of premises let, or given on licence, to the Government or a local authority or taken on behalf of the Government on such basis by, or in the name of such officer.

04) Learned advocate for defendant No.1 has further submitted that admittedly the suit property is owned by local authority i.e. defendant No.1 Municipal Council, Karanja Lad. As such, the present suit is not tenable as suit premises being belonged to the local authority i.e. defendant No.1 Municipal Council, Karanja Lad is exempted under Section 3 of the aforesaid Act, 1999. It is further submitted that as the plaintiffs are in unauthorized possession of suit premises which are Government premises, there is a separate Act i.e. the Maharashtra Government Premises (Eviction) Act, 1956 for evicting the occupant from Government Premises. As per Section 8A of said Act, 1956, it is provided that no Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person from any Government premises on any of the grounds specified in Section 4 of said Act or the recovery of the arrears of rent or the damages payable for use or occupation of such premises.

05) Learned advocate for defendant No.1 has further

submitted that as per the provisions of aforesaid Act of 1956, only Collector has power to entertain the suit or dispute in respect of Government Premises and if any action is taken by the defendant No.1 in respect of suit premises then plaintiffs have every right to contest the case and to put their grievances before District Collector. As such, the present suit is not maintainable before this Court as this Court is having no jurisdiction in view of Section 8A of aforesaid Act of 1956. Therefore, learned advocate for defendant No.1 has prayed that plaint is required to be rejected under Order VII Rule 11(d) of the Code of Civil Procedure, 1908 for the reasons stated above.

06) On the contrary, present application is strongly opposed by plaintiffs by filing their say at **Exh.20**. It is further contended in their say that the present application is nothing but an abuse of the process of law by defendant No.1. The suit is for declaration and permanent injunction. Under the provisions of any Act, jurisdiction of the Civil Court is not barred. The defendant No.1 tried to take forcible possession without following due course of law. Thus, the suit is filed along with the application under Order 39 Rule 1 and 2 of C.P.C. Under the Maharashtra Government Premises (Eviction) Act, the jurisdiction of the Civil Court is also not barred up to the extent of declaration as the aggrieved person is competent to claim the declaration.

07) It is further contended that the powers of the Collector are only in respect of the suit for taking possession and not relating

to the other matters. It is further contended that while deciding the jurisdiction of Civil Court the averments in the plaint are to be considered and not the defense of the defendants. Under legal position the defendant No.1 has no voice to say anything regarding the jurisdiction. So also under the provisions of The Maharashtra (MC) and (NP) and Industrial Township Act, 1965 the jurisdiction is not barred. The plaint shows the cause of action and right to file the suit. As per para No.14 of the plaint, the cause of action is shown which is sufficient for entertaining the suit. Hence, the application filed by the defendant No.1 is opposed and the same is liable to be rejected with costs.

08) Following points arise for my determination, I have recorded my findings thereon for the reasons discussed below.

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1)	Whether plaint is required to be rejected under Order VII Rule 11(d) of Code of Civil Procedure, 1908 ?	In the Negative.
2)	What order ?	Application is rejected.

REASONS

As to point No.1:-

09) I have perused record of the matter and also considered the submissions of learned advocate for defendant No.1 as well as the contentions of plaintiffs as mentioned in their say at **Exh.20**. From perusal of plaint, it appears that plaintiffs have filed instant suit

for seeking reliefs of declaration and perpetual injunction. It is well settled law that when objection is raised under Order VII Rule 11 of C.P.C. 1908 then only plaint averments are required to be looked into and the defense of defendants has no value at the time of deciding such objection.

10) It is pertinent to note here that the plaintiffs have sought relief of perpetual injunction that their peaceful possession over the suit premises should not be disturbed by defendant No.1 without following due process of law. Moreover, they have also sought relief of declaration that they be declared as tenants under the provisions of Maharashtra Rent Control Act, 1999 and not under the provisions of Transfer of Property Act, 1882. Reliefs of declaration and perpetual injunction can only be granted by a Civil Court and not by a Revenue Court or Revenue Authorities. As such, present suit is very well maintainable before this Court.

11) Moreover, the contention of defendant No.1 that this Court has no jurisdiction to entertain present suit as per **Section 8A of Maharashtra Government Premises (Eviction) Act, 1956** can not be accepted because as per said Section 8A of said Act, the jurisdiction of Civil Court is barred only to entertain any suit or any proceeding in respect of eviction of any person from any Government Premises on any of the grounds specified in Section 4 of the said Act. However, in the present suit, it prima facie appears that defendant No.1 is not evicting the plaintiffs from the suit premises on any of the

grounds as specified in Section 4 of the said Act. On the contrary, it appears from the plaint as well as from the contentions of defendant No.1 that plaintiffs are being evicted from the suit premises only for the reason that they are occupying suit premises even after their tenancy period is over. As such, it can not be said that the jurisdiction of this Court to entertain present suit is barred in view of Section 8A of aforesaid Act, 1956. Therefore, I do not find any substance in the present application. Hence, I answer point No.1 in the negative.

As to point No.2 :-

12) In such circumstances, I am of the opinion that, the present application deserves to be rejected. Therefore, I proceed to pass following order -

ORDER

- 1] Application is hereby rejected.
- 2] No order as to costs.

Date - 20/01/2026.

(S. W. Thombre)
Civil Judge, (Sr.Dn.),
Karanja (Lad).

CERTIFICATE

I affirm that the contents of this PDF file judgment/order are same word to word, as per original judgment/order.

- 1) Name of Stenographer :- S. P. Kale (Stenographer G-III)
- 2) Name of Court :- Civil Judge (S.D.), Karanja.
- 3) Date :- 20/01/2026
- 4) Order signed by the
presiding officer on :- 20/01/2026
- 5) Order uploaded on :- 20/01/2026