

MHAU020007202024



Received on :- 14/02/2024
Registered on :- 21/02/2024
Decided on :- 17/07/2026
Duration:-02 Yrs 05 Months 03 Days

**IN THE COURT OF 2nd JT. CIVIL JUDGE (SENIOR DIVISION),
AURANGABAD**

(Presided over by : Shri. D. G. Malviya)

Spl. Civil Suit No.79/2024

Exh. No.18/A

Shailesh Shrikant Tharewal,
Age: 56 years, Occu :- Agri.,
R/o. Jafrabad, Tq. Jafrabad,
Dist. Jalna.

...Plaintiff

VERSUS

Rahul Shankar Dandge,
Age:- years, Occu:- Business
R/o. Row House No.7, Gut No.2,
Hindustan Awas, Sector 2, Nakshtrawadi,
Chhatrapati Sambhajinagar.

...Defendant

Claim : Suit for recovery of possession and damages.

Advocate for plaintiff :- Shri. Chaitanya Dharurkar.
Suit proceeded exparte against defendant.

J U D G M E N T

(Delivered on 17th July 2026)

The plaintiff has instituted the present suit for recovery of possession and damages.

2. In brief, facts of the plaintiff's case are as under:-

The plaintiff is legally owner of a residential Row house No.7 (Ground Floor), area admeasuring 1014 Sq. ft., constructed area 525 Sq. ft., RH building, constructed on Survey No.102, Nakshatrawadi, Taluka and District Chhatrapati Sambhajnagar (Hereinafter called as a 'suit property').

3. The plaintiff further submitted that the suit property had purchased by him on 20.12.2002 and since then he owned and was possession of the suit property. Plaintiff further submitted that on the request of defendant the plaintiff given the suit property on rent to defendant on the condition that as and when the plaintiff require the suit property he will immediately hand over the possession of suit property. Plaintiff further submitted that on 27.07.2023 the plaintiff by notice inform that he want to inspection of the suit property but the defendant denied the relationship of the landlord-tenant and falsely reply and stated that the plaintiff had made agreement to sale with him and not permitted to inspection of the suit property. Hence prayed for vacate possession of the suit property from the defendant and also prayed for damages of Rs.10,000/- per month for loss for three years period Rs.3,60,000/- and also prayed for inquiry into mesne profit.

4. Suit summons was duly served to defendant. Inspite of that he did not appear and matter was proceeded exparte against defendant.

5. Points for determination and my findings thereon are as under:-

Sr. No.	<u>POINTS</u>	<u>FINDINGS</u>
1]	Does the plaintiff prove that the suit property was given on rent to defendant?	In the negative.
2]	Does the plaintiff prove that he validly terminated the tenancy of suit property ?	In the negative
3]	Whether plaintiff is entitled for recovery of possession of the suit property ?	In the affirmative
4]	Whether plaintiff is entitled for damages as claimed ?	In the negative
5]	Whether the plaintiff is entitled for inquiry into mesne profit ?	In the affirmative as per final order
6]	What order and decree?	As per final order.

6. In support of pleading the plaintiff Shailesh Shrikant Tharewal has filed his evidence affidavit as per Exh.6 and relied upon following documents :-

Sr. No.	Documents	Exh.
1.	Sale deed no. 2493/2002 executed by Hindustan Group Awas Limited in favor of the plaintiff dated 20.12.2002	9
2.	Deed of declaration and possession receipt dated 12.12.2002	10
3.	Receipts for the money paid by the Plaintiff to Hindustan Awas.	10/1 to 10/4
4.	Village Form No. 6, Mutation Entry No. 4645	11
5.	Village Form No.8, khata No.4275	12
6.	7/12 extract of Gut No.102	13
7.	The reply to the notice sent by the plaintiff on 27.07.2023, along with the envelope and the acknowledgment receipt along with unsealed envelope.	14

REASONS

As to point No.1 and 2:-

7. By filing evidence affidavit the plaintiff has reproduced the facts as it is mentioned in plaint. He deposed that he is the owner of suit property and the suit property was given on rent to defendant in the year 2013 and for that purpose the tenancy agreement was executed in between them and defendant assured to the plaintiff as and when the plaintiff require the suit property the defendant will hand over the possession of the suit property. It has further come in his evidence that on 27.07.2023 by notice he inform to the defendant that he wants to inspect the suit premises but he denied the landlord-tenant relationship by sending reply notice.

8. In support of the contention, to show his ownership, the plaintiff has relied upon the sale deed Exh.9, the copy of Gav

Namuna 8 (Exh.12), it shows that by the registered sale deed bearing No.2493/2002 the plaintiff had purchased the suit property by registered sale deed dated 20.12.2002 for total consideration amount of Rs.3,20,000/-. After gone through the Gav Namuna 6 (Exh.11) the said suit property mutated in the name of plaintiff by mutation No.4645 on 23.04.2022. The documents shows that the plaintiff is the owner of the suit property.

9. Submission of the plaintiff regarding the suit property was given on rent to the defendant in the year 2013 but the plaint as well as the evidence affidavit is vague on the point of the suit property was given to defendant on rent. There is not mentioned any amount of monthly rent or yearly rent. As per the provision of Maharashtra Rent Control Act the notice is also require for recovery of the rent but nothing brought on record by the plaintiff that the suit property given on rent and the prior to filing the suit the plaintiff had issued notice regarding demand of arrears of rent or the plaintiff require the suit property as a bonafied need which grounds are available under Section 15 and 16 of the Maharashtra Rent Control Act. Therefore my findings to point No.1 and 2 in the negative.

As to point No.3:-

10. Learned counsel for the plaintiff filed written notes of argument. On behalf of plaintiff argued that the defendant by reply notice denied the relationship between the landlord-tenant. Therefore defendant is trespasser, as landlord-tenant relationship

is terminated due to his denial. The Civil Court can passed a decree of possession on the basis of plaintiffs title though the landlord-tenant relationship is denied and not proved. In this situation the defendant is require to show in what capacity he occupied the suit premises, if he fails, he is only a trespasser. The defendant has not produced any document and contested the suit therefore the plaintiff is entitled to recovery of possession.

11. The documents shows that the plaintiff is the owner of the suit premises. On the contrary the defendant not appear and contested the suit adverse to the claim of the plaintiff. Though previous notice is not proved on record regarding the demand of vacate of the suit premises. But, after receipt of the summons the defendant not appear in the proceeding. Therefore on the basis of title the plaintiff is entitled for the recovery of the suit premises from the defendant. Hence my finding to point No.3 in the affirmative.

As to point No.4 and 5:-

12. The plaintiff has claimed damages of Rs.10,000/- per month from last three years period prior to filing of the suit and also claimed for inquiry into mesne profit. The plaintiff submitted that he had given the notice to the defendant regarding plaintiff wants to inspect the suit property but he denied the landlord-tenant relationship and falsely replied that on the basis of agreement to sale he is in possession of the suit property. But the plaintiff failed to prove the notice regarding he demanded the vacant possession of the suit property at any time prior to filing of

the suit. Though it assumed that the notice was issued to the defendant but in the said notice plaintiff not ask the possession of the suit property, recovery of the arrears of rent amount or any of the amount. Therefore plaintiff is not entitled for any of the damages as claimed. Hence my findings to point No.4 in the negative. So far as concern the mesne profit, the plaintiff is entitled for future mesne profit. Therefore inquiry necessary. Accordingly my findings to point No.5 as per final order. In view of this the plaintiff is entitled for the recovery of the possession of the suit property. Hence for the point No.6, I pass the following order:-

ORDER

- 1) Suit is partly decreed.
- 2) The defendant shall hand over the possession of the suit property within two months from today.
- 3) If defendant fail to hand over the possession of the suit property within two months the plaintiff is entitled for the inquiry into mesne profit as per order 20 rule 12 of the Code of Civil Procedure from the date of decree till delivery of possession to the plaintiff.
- 4) Decree be drawn up accordingly.

Place:- Aurangabad.
Date :- 17/07/2026

(D. G. Malviya)
2nd Jt. Civil Judge Senior Division,
Aurangabad.

CERTIFICATE

I am affirm that the contents of this [P.D.F.](#), file Judgment are same, word to word, as per the original Judgment.

Name of the Stenographer	:- K.G. Khaire,
Court	:- 2 nd Jt. Civil Judge (S.D.), Aurangabad.
Date	:- 17.07.2026.
Judgment signed by the presiding officer on	:- 17.07.2026.
Judgment uploaded on	:- 17.07.2026.