

MHKO010027432016 Presented on : 26.07.2016.



Registered on : 29.07.2016.

Decided on : 05.08.2026.

Duration : Y. M. D.
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IN THE COURT OF PRINCIPAL DISTRICT JUDGE AT KOLHAPUR

(Presided over by A. M. Patil)

Municipal Appeal No. 95/2016.

Exh. 17.

- 1) Shri. Gafur Ibrahim Vantmuri
Since deceased Through Legal Heir,
Shri. Rafik Gafur Vantmuri,
Age : 57 yrs., Occu.:- Business,
R/o. Temblai Mandir, Kalanand
Housing Society, Plot No. 8, Kolhapur. **..Appellant.**

Versus

- 1) Kolhapur Municipal Corporations
Through its Commissioner
'C' Ward, Bhausingji Road,
Kolhapur. **..Respondent.**

Advocates Appeared –

Shri. R. L. Chavan, Ld. advocate for the appellant.

Shri. P. A. Raut, Ld. advocate for the respondent.

JUDGMENT

(Delivered on 5th day of August, 2026)

1. This is an appeal filed by appellant challenging order dated 2.7.2016 passed by respondent No. 2 in Kolhapur Municipal Corporation Estate Department Case No. 81B- Vs 40/2016 directing the appellant to vacate the possession of the shop property. Being aggrieved by the order dt. 2.7.2016 the appellant

has filed this appeal u/sec. 81-F of the Maharashtra Municipal Corporations Act (hereinafter referred to as “the Act”).

2. Facts in brief of the Appellant's case are as follows -

The property bearing shop unit bearing No. 11 (outside) area 13.38 sq. mtr. on ground floor of grain market situated at C.T.S. No. 1329, C Ward, Laximpuri, Kolhapur is the 'shop property'. The shop property is owned by the respondent Corporation and possessed by the appellant. Appellant is in possession of the shop property by virtue of registered lease deed dt. 1.9.2012 and the period of said lease deed is 20 years. Respondent issued notice u/sec. 81-B of the Act to the appellant on 19.8.2015 calling upon him to deliver vacant possession of the shop to it within one month as the shop was required by respondent No. 1 in public interest. So also, on 20.8.2015 second notice was issued. Appellant submitted his detailed say to the said notices. However, the respondent passed the above said order on 2.7.2016 for eviction. Being aggrieved and dissatisfied with the eviction order passed by the respondent appellant preferred this appeal on the grounds mentioned in the appeal memo.

3. It is the contention of the appellant that the respondent at its own cannot change the use of land for other purpose. The appellant had demanded documents from the respondent in respect of use of the land, but it did not supply the same. In absence of any resolution by the Corporation the purpose mentioned by the respondent is illegal and that too

without showing any financial situation for carrying out the said purpose. Appellant further contended that the respondent cannot unilaterally put terms and conditions in respect of taking of possession without any objection. Even, when there is provision in the Transfer of Property Act, the respondent cannot bypass the same. The respondent has no power to terminate tenancy. Lastly, he contended that the appellant has only this earning source and therefore, the order passed by the respondent is patently illegal and needs to be quashed and set aside.

4. Respondent appeared and filed its say at Exh. 11 and denied all the contents of the appeal memo. It is submitted that the appellant has no locus standi to file this appeal. Respondent admitted lease deed. The respondent has bona-fide need of the shop property for public purpose. It further contended that the respondent has proposed multipurpose vertical establishment of commercial complex and community hall having the facility of parking in basement to lessen the rush in the grain market area, also to construct shops on ground floor, halls on first floor and different offices from 2nd to 5th floor. It further contended that the said property is belonging to local Authority and therefore, the provisions of Maharashtra Rent Control Act are not applicable. Lastly, it contended that the impugned order is legal and proper and it is necessary to saddle compensatory cost and exemplary cost on the appellant.

5. At the time of argument appellant relied on the judgment of our Hon'ble High Court in **Mr. Karansingh Shivsingh**

Gill Vs. Nashik Municipal Corporation, 2024 (6) BCR 1, to contend that, *‘the authority cannot take action in arbitrary manner. There must be some reason for asking the eviction.’*

6. On the other hand the respondent relied on the following judgments of Honble Supreme Court and our Hon’ble High Court as under -

- i. Sambhaji Anandrao Ghotane Vs. Kolhapur Municipal Corporation – Writ Petition No. 11091 of 2025 decided on dt. 4th September, 2025 by Hon’ble Bombay High Court, Circuit Bench at Kolhapur.
- ii. Ramniklal N. Bhutta Vs. State of Maharashtra – AIR 1997 Supreme Court 1236.
- iii. Ramchandra Jivatram Chetwani Vs. Pune Municipal Corporation – 2013 (1) Mh.L.J. 245.
- iv. Municipal Corporation of City of Jalgaon Vs. Arjundas Khushiram Bajaj – 2016 (4) Mh. L.J. 585.

7. Upon hearing arguments of learned counsels for both sides and considering contentions raised in the appeal memo following points arise for my determination and I have recorded my findings thereon for the reasons given thereunder.

Sr. No.	POINTS	FINDINGS
1.	Whether the impugned order is legal, proper and correct ?	Yes.
2.	What order ?	Appeal is dismissed.

REASONS**As to points No. 1 and 2 :-**

8. The present appellant has executed rent agreement of the shop property with the respondent on dt. 1.9.2012. It is registered agreement. In the said agreement the appellant has admitted the following terms and conditions mentioned in para No. 3 and 11 of the said agreement which reads as under -

“३. रेंट अँक्ट अगर कुळ वहिवाटीची वगैरे कोणतेही प्रकारची सबब न सांगता सदर गाळेचा कब्जा मुदती अखेर म्हणजेच दि. १७/६/२०३२ इसवी अखेर खाली करुन महानगरपालीकेच्या कब्जात देईन जर कब्जा मुदतीत कोल्हापूर महानगरपालीकेस सदर गाळेची जरूरी भासलेस मु. प्रा. न. पा. अधिनियम १९४९ चे कलम ८१ मधील तरतुदीनुसार नुकसान भरपाई न मागता अगर अन्य कोणतीही सबब न सांगता मुदतीपुर्वी सदरचा दुकान गाळा खाली करुन महानगरपालीकेच्या कब्जेत देईन त्यास मी कोणत्याही प्रकारची हरकत अगर तक्रार करणार नाही.”

“११. कलम १ मध्ये वर्णन केलेल्या गाळ्याचा व्यापारी संकुलाचा करार कालावधीमध्ये विकास करणेचे धोरण महानगरपालीकेने अवलंबिलेस लिहून देणार यांचा पुनर्वसनाचा विचार करणेत येईल तथापी हे पुनर्वसन कोठे व कशाप्रकारे करावे या संदर्भातील अंतिम निर्णय घेणेचा अधिकार मा. आयुक्त, कोल्हापूर महानगरालीका यांचा राहिल.”

9. On 19.8.2015 the respondent sent show cause notice to the appellant and asked for eviction on the ground of public interest. The respondent replied the said notice through his

Advocate P. J. Oswal. It is seen that the appellant has raised only ground that the show cause notice is falsely issued and the respondent has no authority to ask for eviction in view of Section 110 of the Transfer of Property Act.

10. On 2.7.2016 the respondent issued notice and asked the respondent to vacate the said property within one month from the date of receipt of the notice. After giving hearing to the appellant, respondent passed the impugned order dt. 2.7.2016.

11. While passing the impugned order the respondent has given his findings as under -

- i) The suit shop has been given on lease agreement on the agreed terms and conditions.
- ii) The opponent/appellant had agreed to handover the possession as and when required by the Corporation without raising any objection.
- iii) The provisions of Transfer of Property Act is not applicable to the land held by the Municipal Corporation.
- iv) It is not necessary for the Municipal Corporation to specify each and every public interest in the show cause notice.
- vi) Section 110 of the Transfer of Property Act is not applicable.
- vii) Satisfaction of Commissioner is sufficient and there is no need of any resolution.

12. By passing the said impugned order the respondent directed the appellant to vacate the possession of the shop property within one month from the intimation of the order and if

the opponent refuses or fails to give possession then it shall be taken by following due procedure of law.

13. In the case of Karansingh (supra) the Hon'ble High Court quashed and set aside the order of District Court because the Court has passed the said order on the ground of unauthorized occupation which was not taken. Here in this case upon perusal of reasoning given by the Respondent it is in conformity with the provisions of Maharashtra Municipal Corporation Act. On the contrary in the Judgment of **Nirmala (supra)** relied by the respondent, our Hon'ble High Court relying on the judgment of **Karansingh (supra)** it is held that, the satisfaction of the learned Commissioner is important. In the present case in hand upon perusal of the order passed by the learned Commissioner, he has passed the reasoned order. He considered every objections and submissions of the opponent/appellant. It is admitted fact that the appellant has executed registered lease agreement with the respondent and therefore, he is bound by every terms and conditions laid down there. So far as the public interest is concerned, the learned Commissioner has given reasoning that the Corporation has to build commercial complex and community hall at the said place. Considering all these aspects it is seen that the learned Commissioner has passed reasoned order and there is no necessity to interfere in it by this Court. Therefore, the judgment in **Karansingh (supra)** is not applicable with all respect. Hence, I answer point No. 1 in the **affirmative** and in answer to point No. 2, I pass the following order :-

ORDER

- 1 The appeal is dismissed with no order as to costs.
- 2 The original documents, if any, be returned to the parties.

(Dictated and pronounced in open Court.)

(**A. M. Patil**)

Date : 5.8.2026.
Kolhapur

Principal District Judge, Kolhapur.
JO Code-MH02456