**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**BENCH AT AURANGABAD**

**WRIT PETITION NO. 3675 OF 1993**
**WITH**
**CONTEMPT PETITION NO. 708 OF 2016**

Pundlik son of Nagnath Dashetwar, .. Petitioners
since deceased per legal heirs :-

1. Smt. Janabai w/o. Pundlik Dashetwar
aged 60 years, occ. Household
[died–deleted as per order dated 15.03.2013]

2. Pralhad s/o. Pundlik Dashetwar
aged 35 years, occ. labourer,

3. Narayan s/o. Pundlik Dashetwar
aged 29 years, occ. labourer
died – through legal heirs

3-A) Prabhavati w/o. Narayan Dashetwar
Age. 58 years, Occ. Household,

3-B) Datta s/o. Narayan Dashetwar
Age. 30 years,Occ. Labourer,

3-C) Digambar s/o. Narayan Dashetwar
Age. 26 years, Occ. Labourer,
All R/o. Wanjarwada, Tq. Jalkot,
District – Latur.

4. Janardhan s/o. Pundlik Dashetwar
aged 29 years, occ. labourer,

5. Pandurang s/o. Pundlik Dashetwar
aged 25 years, occ. labourer,

6. Bhanudas s/o. Pundlik Dashetwar
aged 23 years, occ. labourer,

All R/o. Wanjarwada, Taluka Ahmedpur,
District Latur.

**VERSUS**

Baba Malhari Dhangar .. Respondents
since deceased per LRs :-

1. Malhari s/o. Baba Dhangar
age 50 years, occ. labourer,
died – through LRs :-

1A. Prabhakar s/o. Malhari Kadrale (Dhangar)
Age. 59 years, Occ. Agri.,

1B. Manohar s/o. Malhari Kadrale (Dhangar)
Age. 38 years, Occ. Agri.,

1C. Babu (Baba) s/o. Malhari Kadrale (Dhangar)
Age. 38 years, Occ. Agri.,

1D. Smt. Sakhubai d/o. Malhari Kadrale (Dhangar)
Age. 57 years, Occ. Agri.,

1E. Suwarna d/o. Malhari Kadrale (Dhangar)
Age. 40 years, Occ. Agri.,

1F. Laxmibai d/o. Malhari Kadrale (Dhangar)
Age. 37 years, Occ. Agri.,

1G. Madhukar s/o. Malhari Kadrale (Dhangar)
died through His LRs.

1G1. Smt. Jayshree wd/o. Madhukar Kadrale (Dhangar)
Age.45 years, Occ. Household.

1G2. Shivaji s/o. Madhukar Kadrale (Dhangar)
Age. 38 years, Occ. Agri.,

1G3. Tanaji s/o. Madhukar Kadrale (Dhangar)
Age. 22 years, Occ. Agri.,

1G4. Kaushalya d/o. Madhukar Kadrale (Dhangar)
Age. 18 years, Occ. Household.

1H. Smt. Anusayabai wd/o. Malhari Kadrale (Dhangar)
Age. 85 years, Occ. Nil

All are R/o. Wanjarwada, Tq. Ahmedpur (Old)
Tq. Jalkot (New), Dist. Latur.
At present R/o. Jamb (Bk)
Tq. Mukhed, Dist. Nanded.

2. Govindrao Tatyarao Deshmukh
deceased through his legal heirs :-

2-A. Bhausaheb s/o. Govindrao Deshmukh,
Age. 40 years, Occ. Agriculture,
died through his LRs :-

2A1. Namunabai wd/o. Bhausaheb Deshmukh
died.

2A2. Tatyasaheb s/o. Bhausaheb Deshmukh
Age. 38 years, Occ. Agri.,

2A3. Nagesh s/o. Bhausaheb Deshmukh
Age. 36 years, Occ. Agri.,

All R/o. Wanjarwada, Tq. Ahmedpur (old)
Tq. Jalkot (New), Dist. Latur.

3. Raghunath s/o. Govindrao Deshmukh
Age. 30 years, Occ. Agriculture,

4. The Hon’ble Minister for State
for Revenue, Mantralaya, Bombay.

5. The Tahsildar, Ahmadpur.

6. The State of Maharashtra

Mr.Rajendra Deshmukh, Sr. Advocate i/b. Mr. B.N. Palve a/w. Ms. Ashwini Deshmukh, Advocate for the petitioners.
Mr.S.V. Chandole h/f.Mr.V.G. Sakolkar, Advocate for respondent Nos.1-3.
Ms.R.R. Tandale, AGP for the respondent-State.

**CORAM : KISHORE C. SANT, J.**
**RESERVED ON : 23.09.2025**
**PRONOUNCED ON : 19.12.2025**

**J U D G M E N T :-**

01. This petition is at the instance of the persons claiming to be tenants in the property, whose tenancy claim is refused by the Hon'ble Minister by impugned judgment and order dated 03.09.1993, dismissing their Revision bearing No. HIA 1797/CR-150-L3. The order passed by the learned Tahsildar dated 29.07.1968 in favour of the respondents is confirmed declaring the respondents as occupants of the land. Respondent Nos. 1 to 3 are the persons who are now recognized as occupants over the land by the Tahsildar, Ahmadpur. The Tahsildar had rejected the objection petition of the respondents to the extent of Survey No. 2 of village Wanjarwada. Other respondents are State Authorities. Respondent No.4 is Hon'ble Minister (Revenue), respondent No.5 is the Tahsildar, respondent No.6 is the State of Maharashtra.

02. This petition was admitted by order dated 12.11.1993. The petitioners have approached this Court with a case that they are legal heirs of one Pundlik alias Punda, father of present petitioner Nos. 2 to 6 and husband of petitioner No.1.

03. Facts as stated in the petition are as follows :-

. Pundlik was inducted as a tenant in the land Survey No.2 admeasuring 21 Acre 36 Guntha and land Gat No. 23 admeasuring 37Acres and 11 Gunthas at village Wanjarwada, Tal. Ahmedpur, Dist. Latur. He was declared as an occupant of the land under the provisions of the Hyderabad Abolition of Inam and Cash Grants Act, 1954. He was put in possession as a tenant in the said land of one Riyasat begum, owner of the land. On the basis of tenancy, he was cultivating the land since prior to 1950. The deed was duly registered and thus he was duly declared as a protected tenant. His name appears in the revenue record from 1950 like Khasra Patrak, Pahani Patrak, Laoni Patrak in the cultivation column. On coming into force the Inam Abolition Act, said Inam came to be abolished. On the date of notification on 01.07.1960 deceased Pundlik alone was in possession of the land with occupancy right in his favour under section 5 of the Act. His name appears in Jod

Takta showing that Pundlik had paid occupancy price of Rs. 358.80 on 08.11.1985 towards land Survey No.23 and Rs. 335.76 on 08.11.1965 towards land Survey No.2. It is further case that the respondents dispossessed the petitioners as they were minors and petitioner No.1 was widow.

04. Since prior to that the dispute had started on application filed by one Govind Deshmukh and Baba Dhangar, raising objection about tenancy right in respect of deceased Pundlik. On that objection, the Tahsildar, Ahmedpur held an enquiry. The Tahsildar found that the respondents started civil litigation without making Pundlik as a party. The Tahsildar passed an order holding Pundlik in possession. Said order was challenged before the Government. The OSD, Revenue and Forest Department, remanded the matter to the Tahsildar for fresh enquiry and to decide entitlement of occupancy rights under section 5 of the Act. On remand the Tahsildar declared the respondents to be occupants of the land vide his order dated 29.07.1968. Then deceased Pundlik, therefore, approached the Government by filing Appeal bearing No. HIA 4368/200368/L-4. During the tenancy of the appeal, Pundlik died on 29.06.1972. Since he was dead, the matter could not be prosecuted. Notices were issued to the Advocates and the matter was thereafter

abated, since the Advocate failed to give any information. The learned Collector (Land Reforms), thereafter, suo-moto started enquiry and issued notices to the petitioners. That time petitioner No.2 came to know that proceeding was initiated by deceased Pundlik. On 26.12.1989 the petitioners filed application for setting aside order of abatement. The Hon'ble Minister by order dated 29.08.1991 set aside the order of abatement and heard the matter on merit. After hearing the order passed of abatement came to be set aside. The appeal came to be allowed. It is observed that the petitioners were in possession of the land on the basis of registered sale-deed. It is also held that the Civil Court had no jurisdiction to award decree of possession holding the respondents to be trespassers.

05. The respondents, thereafter, filed Writ Petition bearing No. 3990 of 1991. This Court was pleased to remand the matter to Hon'ble Minister for considering question of abatement. It is, thereafter, the Hon'ble Minister declared the respondents as occupants and confirmed the order passed by the Tahsildar. It is, thus, the petitioners are before this Court.

06. Learned Sr. Advocate Mr. Deshmukh vehemently submitted

that Riyasat begum – the land lady had executed registered deed in favour of deceased Pundlik on 27.04.1950 for a period of three years. On 22.01.1952, another instrument was executed by her for a period of ten years. This clearly shows that the deceased Pundlik was in possession. It is on that basis he was declared as a protected tenant. The entry in his name was taken in revenue record. In the revenue record, his names appears as Punda, who is shown to be a tenant. On abolition of Inam, Pundlik alone was found to be in possession and therefore he was shown to be occupant. He also deposited occupancy price. He unfortunately died on 29.06.1972. Before his death, there was already an order dated 31.10.1963 by the Tahsildar in the case of Baba Vs. Bhilla. In the enquiry, there were 11 documents filed by Pundlik. There was one more person taking objection, namely, Govindrao. Said objection was, however, dismissed on the same day in respect of other land. Thus, without any concern, the respondents dispossessed the petitioners taking undue advantage of the fact that the petitioners are minors and petitioner No.1 was a widow. The Sr. Advocate further submits that the petitioners cannot be blamed for the happening after 1972. In the suit instituted by the respondent, the petitioners were never party. Once it is held that deceased Pundlik was a tenant, there is no question of terminating his tenancy. No tenancy right could be

surrendered, unless there is valid surrender in favour of land-lord, there is no question of deceased Pundlik being declared not as a tenant. There was no question of the respondents getting possession of the land.

07. In view of section 99 of the Hyderabad Tenancy and Agricultural Lands Act, civil suit is barred and thus there was no question of passing any order in the civil suit. Even if there was compromise in the suit between the land-lady of Pundlik and the respondent, same is not binding on the Pundlik. Therefore, even if there is decree, it has no force of law. There is nothing on record to show that Pundlik, at any point of time surrendered tenancy right. He thus submits that the respondents had no rights over the land in any capacity. It needs to be declared that it is the only petitioners who have right over the land and prays for allowing the petition.

08. Learned Advocate Mr. Chandole submits that in 1982 the Hon'ble Minister rightly dismissed the proceeding of Pundlik as abated. The application filed in 1982 was without any ground as on the date of filing the application, the petitioners were major. A false ground was taken that they were minors when the abatement order was passed. The Hon'ble Minister had rightly concluded in favour of the respondents,

concluding that Pundlik had no right and it is only the respondents, who were in possession. The civil suit was filed against Riyasat begum seeking possession. The possession of Riyasat begum was found to be illegal. Once it is held that Riyasat begum had no right as owner of the land any document executed by her is inconsequential. No right can be vested in petitioner. The alleged lease-deed was executed when the litigation was going on between the parties. The date of possession of the petitioner is shown to be 07.06.1954, whereas the decree was passed even prior to coming in force Inam Abolition Act. He relies upon provisions of the Act. He submits that all the orders passed till 1955 are very much binding upon deceased Pundlik. The respondents alone were found to be occupants over the land and their names were rightly recorded in revenue record. Even Mutation Entries taken in favour of respondent No.3 were sanctioned by the Collector. On 20.07.1965, the land was taken in possession by the Government in view of Inam Abolition Act. The respondent was always in possession and therefore occupancy right is rightly granted in favour of the respondents by the Hon'ble Minister. He submits that there is no merit in the writ petition and the writ petition deserves to be dismissed.

09. Full Bench of this Court in the judgment of **Dattatraya**

**Sadashiv Dhond Vs.Ganpati Raghu Gaoli, 1965 Mh.L.J. 881**, considered provisions of Section 633 of the Hyderabad Abolition of Inam and Cash Grants Act [ for short "Abolition of Inam Act"] and Sections 32 and 44 of the Hyderabad Tenancy and Agricultural Lands Act. It is held that when the tenant is in possession of the land prior to 20.07.1955 and continues between 20.07.1955 and 01.07.1960, in such cases provisions of the Hyderabad Tenancy and Agricultural Lands Act would be applicable. To claim rights of occupants the claimant must be in actual possession on 01.07.1960. In case the order passed prior to 01.07.1960 when tenant is in possession, the tenant becomes occupant from that date. The Inamdar would be entitled to right of occupant only when order is made prior to 01.07.1960. It is concluded that when no order for possession is made prior to 01.07.1960, then the land holder was not in actual possession, then the tenant would become occupant.

10. In the case of **Smt. Ujjam Bai Vs. State of U.P. and Anr., AIR 1962 SC 1621(1)**, the Hon'ble Seven Judges' Bench considered the term "jurisdiction". It is taken to mean that an authority to decide. It is held that wherever a judicial or quasi judicial tribunal is empowered or required to enquire into a question of law or act for the purpose of giving a decision in it, its findings thereon cannot be impeached collaterally or

on an application for certiorari. Such judgments are held binding until reversed in appeal. This judgment needs to be considered in the light of statement of the respondent that when there was already an order passed by the competent tribunal or the authority, that would become final and that cannot be question in any collateral proceedings.

11. The judgment in the case of **Bhima Aba Rade since deceased through LRs Vs. Thakubai Maruti Rade & Ors., 2008(1) Mh.L.J. 192**, is on the aspect of surrender of tenancy rights under Bombay Tenancy and Agricultural Lands Act. It is held that it needs to be presumed that the Authority had acted in accordance with provisions of law, while accepting surrender of tenancy rights by tenant. It is held that the Civil Court has no jurisdiction to examine the questions, which are required to be dealt with and settled under the provisions of the Act. Considering the bar under section 85 of the Act, this Court held that the Civil Court cannot go into that aspect.

12. In the present case this Court finds that there is no dispute that so called compromise decree was between the landlady and the respondent. That was not binding on the petitioners as the petitioners were protected tenants. However, it is seen that the tenant failed to

prove that he was in possession on the crucial date. The decree of Civil Court would not bind the tenant. It is necessary to show that the surrender was valid. So far as the petitioners' case is concerned, the learned Minister had already concluded and decided the matter on merit, this Court does not find any substance in the argument of learned Advocate for the petitioner that lease deed was executed when litigation was going on. Since it is shown that the tenant was in possession since prior to the date of 1955, the question of application of Inam Abolition, therefore, would not be there. The petitioner has failed to show that there was valid surrender by the tenant at any point of time. It is clear that the tenant was in possession on the crucial date and it could not have been effected through a decree of Civil Court as per the submissions of the petitioners.

13. The learned Minister has rightly recorded that the tenancy rights were surrendered before the Tenancy Court. The surrender was accepted by the Tahsildar and it is on following procedure. Name of Pundlik Nagnath was removed from the tenancy register. The name of the respondents appeared in the record of rights from 1954 onwards. The respondents have thus proved that the surrender was duly verified by the Tahsildar, Ahmadpur.

14. This Court does not find any perversity or illegality in the order passed by the learned Minister. Considering the judgments cited, this Court finds that it was necessary to show that the tenant was in possession on the crucial date i.e. 20.07.1955. Having failed to show such possession, there is no question of accepting case of the petitioner. This Court thus finds that no case is made out to allow this petition. This petition, therefore, stands dismissed. Rule discharged.

15. In view of dismissal of the writ petition and since the connected contempt petition is against an interim order in the petition, nothing survives in the said contempt petition. Therefore, the contempt petition also stands disposed off.

**[KISHORE C. SANT, J.]**

snk/2025/Oct25/wp3675.93