

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

WRIT PETITION NO. 2320 OF 2012

Vithal s/o Dharma Gholap,
Age: 50 years, Occ: Agri.,
R/o. Terkheda, Tq. Washi,
Dist. Osmanabad.

...Petitioner

versus

1. Balkrishna Marutirao Gholap,
Age: 74 years, Occ: Agri.,
R/o. Terkheda, Tq. Washi,
Dist. Osmanabad.
At present R/o. Dharangaon,
Tq. Dharangaon, Dist. Jalgaon.
2. Satish Marutirao Gholap,
Age: 59 years,
Occ: Business & Agri.,
R/o. As above.
3. Sharad Marutirao Gholap,
Age: 58 years,
Occ: Service & Agri.,
R/o. As above.
4. Dwarkabai w/o Ramkrishna More,
Age: 76 years, Occ: Household,
R/o. Dharangaon, Tq. Dharangaon,
Dist. Jalgaon.
5. Pushpa w/o Babanrao Yadav,
Age: 70 years, Occ: Household,
R/o. Dharangaon, Tq. Dharangaon,
Dist. Jalgaon.
6. Vimalbai w/o Bhimrao Nimbalkar,
Age: 67 years, Occ: Household,
R/o. Jalgaon, Tq. & Dist. Jalgaon.
7. Kamal w/o Purushottam Navale,
Age: 61 years, Occ: Household,
R/o. Ozar, Tq. Niphad,
Dist. Nashik.

...Respondents

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Mr. Mahendra B. Kolpe, Advocate for petitioner.
Mr. V.B. Patil, Advocate for respondents.
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CORAM : N.W. SAMBRE, J.

DATE : 6TH APRIL, 2015

ORAL ORDER :

The admitted facts are as under:

Against the order passed by the Tahsildar, Washi, after remand by the Maharashtra Revenue Tribunal, Aurangabad, the Tahsildar has decided the issue as regards the status of the petitioner, as that of protected owner under the provisions of Hyderabad Tenancy and Agricultural Lands Act, 1950 (for short, 'the Act') against the petitioner, against which the appeal is pending before the Deputy Collector (Land Reforms), Osmanabad bearing Appeal No. 2011/L.R./Ka-1/CR-11.

2. Learned Counsel for the petitioner, in the light of provisions of Section 99 of the Act submits that, the Court below has committed an error of law by not staying the suit before it and by not referring the issue of tenancy before the competent revenue authority.

3. Learned Counsel for the respondents would urge that Section 99 of the Act has no applicability to the facts of the present case, as the issue under Hyderabad Tenancy and Agricultural Lands Act, 1950 is already subjudice, as is stated herein in above in the admitted facts. According to him, the said proceedings have reached at the concluding stage i.e. hearing is already over and the orders in the said matter are awaited. He prays for dismissal of the petition.

4. Having considered the admitted facts and submissions of the parties and provisions of Section 99 of the Act, it is required to be noted that the issue as regards protection under the Act is subjudice before the Deputy Collector (Land Reforms), Osmanabad at the behest of the petitioner and the said proceedings are pending judgment/order before the said authority. It is also required to be noted that even if in the suit, the issue No. 3 in relation to status of the petitioner qua protected tenant is framed, the order passed by the Deputy Collector (Land Reforms), Osmanabad will have direct bearing over the said issue, in view of settled position of law qua jurisdiction of Civil Court in such matters.

5. In view of above, this Court proposes to pass following order.

(a) Present writ petition is dismissed, with liberty to present petitioner to move learned trial Court under the provisions of Section 99 of the Hyderabad Tenancy and Agricultural Lands Act, 1950 to the extent of stay proceedings in the suit which will be decided by trial Court in accordance with law.

(b) The Deputy Collector (Land Reforms), Osmanabad is directed to decide the appeal of the present petitioner bearing No.2011/L.R./Ka-1/CR-11, in which the said authority has fixed the matter for pronouncing the judgment/order, as expeditiously as possible, and in any case, within period of 15 days from the date of communication of this order.

With above observations, the writ petition stands dismissed.

[N.W. SAMBRE, J.]