

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

LPA St NO.21357 OF 2012

Arvind Deochand Mehta and others

Applicants

Versus

Late Genu Tukaram Bhoir
through LRS
Sonubai Genu Bhoir and others

Respondents

Mr.K.D. Bade Patil advocate for Respondent No.2-A to 2-E

CORAM : R.M. BORDE &
P.R. BORA, JJ

Dated : 3rd JULY, 2015.

PER COURT :-

- 1 None appears for the applicant.
- 2 The decision rendered by the learned single Judge on 14.6.2012 in Review Petition No.121 of 2011 in Writ Petition No. 1229 of 1990 is subjected to challenge in the instant appeal.
- 3 The appellants are the landlords of agricultural property in dispute. The father of original respondents No.2 and 3 Viz. Dhavala Uma Rewate was in possession, in his capacity as tenant, of the said agricultural property. According to the appellants Devchanda Mehata, the father of the appellant died prior to 1.4.1957 and as such on the tillers day, the tenants could not

have acquired any right. As such the date of vesting got postponed until the date of attainment of majority of appellants or cessation of disability. The contention of the appellant was negated by the High Court while dealing with Special Civil Application No.1348 of 1972. The High Court held that the Agricultural Land Tribunal shall deal with the proceedings under section 32-G after ascertaining the date of order rendered by the Maharashtra Revenue Tribunal, Pune for resumption of the land in dispute. Direction was issued by this Court on 15.6.1976 against which review application was filed which also was dismissed. It was thereafter noticed that instead of tenants, some other person was in unauthorized possession. As such the appellant tendered an application under section 32-P of the Act claiming that he is entitled for resumption of the possession, since the opponent has violated the conditions and has entered into unauthorized possession. The application was initially allowed by the Sub Divisional Officer. Feeling aggrieved, respondent No.1 to 3 preferred revision application to the MRT which came to be allowed and the order passed by the S.D.O. was set aside. The said order was taken up to this Court in Writ Petition No.1229/90. The question before the Court was as to whether the applicants have any legal right to seek possession of the agricultural property under the provisions of sections 32P or section 32 R read with

section 84 of the BT& AL Act. The Court held against the appellant. It is un-controverted position that in the event of breach of conditions by the tenant or the declared owner, the consequences enumerated in the provisions of law will follow and that even if the tenant or declared owner fails to cultivate land personally, it has to be disposed of in the manner prescribed & in accordance with the priorities laid down under law. The petitioner is not a person who falls within the category of class enumerated in subsection 4 of section 84-C and as such cannot seek resumption of possession. The appellant filed writ petition No. 1229/1990 challenging the order passed by the learned Member, M.R.T. dated 28.1.1988 which came to be rejected. Against the said order, review application also came to be filed which was rejected on 14.6.2012.

In our view, there is absolutely no substance in the LPA presented by the original land lords, appellants herein. The appeal is devoid of any substance and stands dismissed.

(P.R. BORA, J)

(R.M.BORDE, J)