

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7349 OF 2014

Motiram Runja Shinde and ors. : Petitioners
versus
Tahsildar, Nashik and ors. : Respondents.

Mr. Girish R Agrawal for the Petitioners.

Mrs. V S Nimbalkar, AGP for the Respondent No.1.

Mr. Y S Jahagirdar, Senior Advocate a/w Mr. Pradeep J Thorat for the Respondent No.2.

Mr. R A Thorat, Senior Advocate a/w Mr. Sunil G Karandikar for the Respondent Nos.4 and 5.

CORAM : R. M. SAVANT, J.
DATE : 04th August 2015

P.C.

1 The writ jurisdiction of this Court under Article 227 of the Constitution of India is invoked against the order dated 07/09/2013 passed by the learned President of the Maharashtra Revenue Tribunal, Mumbai (for short “MRT”) by which order the Revision Application filed by the Petitioners came to be dismissed and resultantly the order passed by the Tahsildar refusing to take action under Section 84C of the Maharashtra Tenancy & Agricultural Lands Act 1948 and as confirmed by the Sub Divisional Officer, came to be confirmed.

2 The proceedings under Section 84C of the Maharashtra Tenancy & Agricultural Lands Act 1948 (for brevity's sake hereinafter referred to as “the

said Act”) were initiated by the Petitioners against the Respondents in whose favour they have executed sale deeds between the years 1994 and 1997. It is required to be noted that Mutation Entry No.3720 was effected pursuant to the said sale deeds and sanction for the same was given on 13/03/1997. It is long after the said mutation was effected that a suo moto inquiry was commenced by the Tahsildar (Sanjay Gandhi Yojana). However, the said Tahsildar observed that since there has been delay in initiating the said proceedings from the year 1997, the said proceedings could not be proceeded with, and therefore, he dropped the proceedings.

3 The regular Tahsildar challenged the order passed by the Tahsildar (Sanjay Gandhi Yojana) by filing a Revision before the Sub Divisional Officer. The Sub Divisional Officer did not find any reason to interfere with the order passed by the Tahsildar (Sanjay Gandhi Yojana) and accordingly dismissed the Revision by the order dated 27/05/2010. It is against the said order that the Petitioners filed the Revision before the MRT, since they were aggrieved by the order passed by the Sub Divisional Officer.

4 The MRT, as indicated above, has by the impugned order dismissed the Revision Application. Hence the authorities below have concurrently held that the power under Section 84C of the said Act could not be exercised in the facts of the present case. The gist of the reasoning of the

learned President of the MRT is that the application being filed in the year 2004 cannot be said to be within reasonable time. The MRT also adverted to the Notification dated 02/01/2009 wherein the lands in question are now within the territorial jurisdiction or limits of the Nashik Municipal Corporation. The MRT has relied upon the judgment of the Apex Court reported in (1986) 4 SCC 319 in the matter of Smt. Parvati and others v/s. Smt. Fatehsingrao. Pratapsinhrao Gaekwad as regards the impact that such a Notification would have on the application of the Agricultural Tenancy Laws. In the said case, the Apex Court held that the said Notification would apply from a retrospective date. The MRT has also relied upon the judgment of the Apex Court reported in (1997) 6 SCC 71 in the matter of Mohamad Kavi Mohamad amit v/s. Fatmabai Ibrahim wherein the Apex Court held that since Section 84C does not prescribe any time for initiation of the proceedings, such power has to be exercised by the Statutory Authority within a reasonable time. In the instant case, since exercise of powers was long after the mutation was effected in favour of the Respondents, the MRT held that the said judgment would apply on all fours to the facts of the present case.

5 The learned counsel appearing on behalf of the Petitioners Shri Girish Agrawal sought to place reliance on the judgment of the Apex Court reported in (1997) 6 SCC 73 in the matter of Uttam Namdeo Mahale v/s. Vithal Deo and others and relying on the said judgment would seek to contend

that the Apex Court has held that when special statute prescribes no limitation period, the power to exercise the right within a reasonable period does not arise. The said case concerned the execution of an order passed by the Tahsildar under Section 5 of the Mamlatdar's Court Act, 1906 directing the removal of obstructions. It is in the said context that the Apex Court has made the said observation. In my view, the said judgment would not further the case of the Petitioners to get over the aspect of the time frame within which power was sought to be exercised under Section 84C of the said Act in the instant case.

6. Having heard the learned counsel for the parties and having regard to the orders passed by the authorities below, no case for exercise of the writ jurisdiction under Article 227 of the Constitution of India is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]