

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2624 OF 1992

Dinkar Shankar Kashid & Anr.	..	Petitioners
VS.		
Mahadeo T. Kashid, since deceased through L.Rs D. M. Kashid & Ors. Dattatraya M. Kashid, since deceased by L.Rs Smt. Indubai D. Kashid & Ors.	..	Respondents

Mr. S. D. Sadavarte for Petitioners.
None for Respondents.

CORAM : M. S. SONAK, J.
DATE: 15 JANUARY 2015

P.C. :-

1] This petition is directed against the judgment and order dated 7 January 1992 made by the Maharashtra Revenue Tribunal ("MRT") setting aside *inter alia* order dated 15 April 1982 made by the Additional Tahsildar in proceedings under Section 32-G of the Bombay Tenancy and Agricultural Lands Act, 1948 ("said Act") and remanding the matter for fresh decision as per observations made in the impugned order.

2] Considering that this is only an order for remand, no interference is warranted against the same under Article 227 of the Constitution of India in the peculiar facts and circumstances of the present case. However, the learned counsel for the petitioners is

right that the observations made and the instructions given in the impugned order, were really not necessary, if ultimately the matter had to be remanded for fresh consideration by the Tahsildar. The observations made and the instructions given in the impugned order, are mostly based upon suspicion. It is well settled that suspicion can never take place of proof. Accordingly, it is clarified that the Tahsildar, in pursuance of the remand shall not permit himself to be either bound or even be influenced by the observations made and the instructions issued in the impugned order. The order of remand is sustained because these are matters pertaining to agricultural tenants in rural areas. From the material brought on record, if the revisional authority was satisfied that there is some *prima facie* merit in the case set out by the respondents, there was nothing wrong in ordering remand. However, the observations made in the impugned order, can at the highest be regarded as *prima facie* and therefore the same should not in any manner bind or influence the decision making process in pursuance of the remand.

3] Accordingly, the impugned order to the extent it set asides the orders made by the Tahsildar and the appeal court and remands the matter to the Tahsildar for fresh decision, are not interferred with. However, it is made clear that the Tahsildar, in pursuance of the

remand shall decide the matter afresh uninfluenced by any observations made or instructions received by the revisional authority in the impugned order. The Rule is partly made absolute to the aforesaid extent. There shall be no order as to costs.

4] Taking into consideration that the dispute relates to the year 1988, the Tahsildar is directed to dispose of the proceedings as expeditiously as possible and in any case within a period of one year from today.

5] The record and proceedings be transmitted to the Additional Tahsildar, Pet-Vadgaon, Hatkanangale, Kolhapur, at the earliest and in any case within a period of four weeks from today.

(M. S. SONAK, J.)