

Mr. Dilip Bodake for Petitioners.
Mr. Kapil P. Shetye for Respondents No.1 to 6.

P.C. :

Heard Mr. Bodake, learned Counsel for petitioners and Mr. Shetye, learned Counsel for respondents No.1 to 6 at length.

2. By this Petition under Article 227 of the Constitution of India, petitioners have challenged the judgment and order dated 10.02.2015 passed by the learned 4th Joint Civil Judge, Junior Division, Vaduj below exhibit-114 in Regular Civil Suit No.262 of 2008. By that order, the learned trial Judge rejected the application made by the petitioners, hereinafter referred to as 'defendants No.1 to 8', for referring the issue of tenancy to the Tenancy Authorities. The learned trial Judge rejected the application on the ground that at the Suit is for perpetual injunction and the issue of tenancy is already decided.

3. Mr. Shetye has tendered copy of the order dated 12.11.1964 passed by the A.L.T., Vaduj as also the order dated 02.02.1967 passed by the Additional Mamlatdar in proceedings under Section 32(p) of the Bombay Tenancy and Agricultural Lands Act, 1948, which are taken on record and marked 'X Colly.' for identification. He also invited my attention to the written statement filed on behalf of the predecessor in title of defendants No.1 to 8 namely, Mahadu Sitaram Madane in

Regular Civil Suit No.129 of 1987 and in particular paragraph 7 thereof wherein reference to the earlier tenancy proceedings is made.

4. Mr. Bodake submitted that in fact, plaintiffs have not produced these orders in the trial Court.

5. Having regard to the fact that in written statement filed by Mahadu Sitaram Madane - father of defendants No.1 to 8, reference is made to the tenancy proceedings as also the categoric finding recorded by the learned trial Judge that the tenancy issue is already decided, I do not find that the learned trial Judge has committed any error in passing the impugned order. Hence, Petition fails and the same is dismissed.

(R. G. KETKAR, J.)

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