

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8770 OF 2015
IN
REVISION APPLICATION NO. 601/B/2012

Shri. Ramesh Devu Sakpal
V/s.

.....Petitioner

Shri. Bapu Harishet Teli through Lrs

.....Respondents

* * * * *

Mr. Amol D. Joshi, Advocate for the petitioner.

CORAM :- SMT. R.P. SONDURBALDOTA, J.
DATED :- 5TH JULY, 2016.

P.C. :-

1 This petition challenges the concurrent findings of the three authorities under the Maharashtra Tenancy and Agricultural Lands Act, (the Tenancy Act) as regards the claim of the petitioner of being agricultural tenant in respect of the land at Gat No.708. The petitioner had filed before the Tahsildar Tenancy Application No.35 of 2011. The Tahsildar, by his order dated 8th November, 2011 dismissed the application. Aggrieved by the order of dismissal, the petitioner had preferred appeal therefrom being Tenancy Appeal No. 22 of 2012 before the Sub Divisional Officer, which was dismissed by the order dated 4th October, 2012. When the petitioner failed to get any favourable order in the appeal proceedings also, he unsuccessfully preferred a Revision Application to the Maharashtra Revenue Tribunal, Mumbai.

2 On 20th January, 2011, the petitioner filed application under Section 70(b) of the Tenancy Act against one Bapu Teli contending that the land belonged to Bapu Teli and the forefathers of the petitioner had been cultivating the land as tenants. The rent for the land was allegedly paid in cash to the landlord for which no receipts were issued. When the notice was served, one Ravindra Sakpal appeared and filed an application stating that Bapu Teli had died sixty years back and he was survived by his sons and grandsons. On merits, he denied the claim of the petitioner. Thus, the application by the petitioner was against a dead person but no steps were taken by the petitioner to bring the heirs of Bapu Teli on record. Later, the Tahsildar directed the petitioner to implead the heirs of Teli as parties to the application. Even then no amendments were carried out to the main application. However, notices came to be served upon the heirs. The notices were accepted and the application proceeded for hearing.

3 During the course of evidence when the petitioner filed affidavit of examination-in-chief, he came up with a totally different case contending that the land infact belonged to Bhiku Dhondur Tanavade who had mortgaged it to Bapu Teli and by the sister-in-law of the mortgagor, one Janaki Tanavade, he was inducted as the tenant in the suit land. The record produced before the Tahsildar, however, showed that deceased, Bapu Teli

was the owner of Gat No.708 whose heirs have been cultivating the land since the last two generations.

4 The petitioner claimed to be cultivating the land since inception of tenancy. The cryptic application however does not state, either the date or the manner in which the tenancy was created. It also does not refer to the right of Janaki Tanavadi to the property. Neither Janaki Tanavadi nor any of her heirs had been made impleaded to the application. If the claim of the petitioner that Bapu Teli, the respondent to the application is the mortgagee in respect of the land in question and not the owner then the application for declaration of his right against the mortgagee alone, bye-passing the owner, was not even maintainable. The authorities also noted that with the death of Bapu Teli as far back as sixty years, the claim of the petitioner of payment of rent to Bapu Teli was patently false.

5 In the above circumstances, there is no infirmity in the concurrent findings of the three forums below. The petitioner has failed to establish his tenancy in respect of the agricultural land as claimed in the application. Hence, the writ petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)