

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2693 OF 2015

Yasinkhan Nasrullakhan

-vs-

The Sub Divisional Officer, Pusad and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri D. I. Jain, Advocate for petitioner.

Shri K. L. Dharmdhikari, AGP for respondent Nos.1 and 2.

Shri N. L. Jaiswal, Advocate for respondent Nos.3 to 7.

CORAM : A.S.CHANDURKAR, J.

DATE : JULY 18, 2016

Heard.

The challenge in the writ petition is to the order dated 14/11/2014 passed by the Maharashtra Revenue Tribunal thereby dismissing the revision application preferred by the petitioner and confirming the order passed by the Revenue Authorities refusing to mutate the name of the petitioner in the revenue records. The petitioner claims to be the grandson of one Ajab Khan and it is his case that since the year 1950, his grandfather was in possession of the field in question as a tenant. As he was legal heir of said Ajab Khan he filed the present proceedings for mutating his name accordingly. The Tahsildar by order dated 19/10/2013 found that the petitioner's grandfather had initiated proceedings

claiming tenancy rights. These proceedings had attained finality by virtue of the order passed in Letters Patent Appeal No.103 of 1996 on 01/12/1987. It was held therein that Ajab Khan could not be treated as tenant of the land in question. Accordingly, the said application came to be dismissed. This order was confirmed by the Sub-Divisional officer as well as the Maharashtra Revenue Tribunal.

Shri D. I. Jain, the learned counsel for the petitioner submitted that the application of the petitioner deserved to be allowed as he was a tenant of the field in question and this fact was clear from the spot panchanama dated 23/08/2013. He submitted that the spot panchanama was not taken into consideration and the proceedings came to be decided merely on the basis of the earlier orders.

Shri K. L. Dharmadhikari, the learned Assistant Government Pleader for respondent Nos.1 and 2 and Shri N. L. Jaiswal, the learned counsel for the respondent Nos.3 to 7 supported the impugned order. According to them, the right of Ajab Khan has been decided in the earlier proceedings and as the petitioner was claiming through said Ajab Khan, he had no legal basis to seek a declaration that he was a tenant.

I have perused the impugned order as well as the orders passed in the earlier proceedings. It is clear that the entire basis of the petitioner for claiming his name to be

entered into mutation record is his relationship with Ajab Khan. Admittedly in the earlier proceedings, it was held that Ajab Khan was not a tenant of the land in question. The aforesaid orders have attained finality. In this background even if as per the spot panchanama, the petitioner was found in possession, the same would not clothe him with tenancy rights. There being no legal basis to claim the right of tenancy, the impugned orders cannot be faulted. In view of aforesaid, there is no case made out to interfere in writ jurisdiction. The writ petition is dismissed with no order as to costs.

JUDGE

-: C E R T I F I C A T E :-

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