

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

WRIT PETITION NO.3391/2014

Smt. Gangubai Wd/o Bhikaji Kokate and another
 ..Versus..

Abhay Chandra Jawaharlal Choudhari through L.R. and another

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATE : 7.6.2016

Heard Shri V.G. Wankhede, Advocate for the petitioners,
 Shri A.B. Mirza, Advocate for the respondent No.1. None appears
 for the respondent No.2.

The petitioners have challenged the order passed by the
 Maharashtra Revenue Tribunal dismissing the revision application
 filed by the petitioners and maintaining the order passed by the
 Sub-Divisional Officer under Section 120 of the Maharashtra
 Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (for
 short "Act of 1958").

The respondent No.1 filed an application under Section 120
 of the Act of 1958 contending that the petitioners are in
 unauthorized occupation of agricultural land owned by the
 respondent No.1 - Trust and, therefore, they be evicted summarily.

The petitioners came out with the defence that Bhikaji
 Kokate and Sitaram were the original tenants and were protected
 lessee of the suit land having been in cultivating possession prior to
 the tillers day and after their death the petitioners continued to
 cultivate the land as tenants and had been paying lease money.

The Sub-Divisional Officer, after considering the rival contentions, by the order dated 20th October, 2005 recorded that exemption certificate under Section 129(b) of the Act of 1958 was issued in favour of the Trust on 25th October, 1963 and, therefore, after death of original tenants the petitioners cannot inherit the tenancy rights. The learned Sub-Divisional Officer rejected the claim of the petitioners that they are in cultivating possession of the land as tenants, observing that the rent receipts produced by the petitioners are in the name of original tenant Sitaram.

The Maharashtra Revenue Tribunal has concurred with the findings recorded by the Sub-Divisional Officer.

Shri V.G. Wankhede, Advocate for the petitioners has submitted that Bhikaji and Sitaram (original tenants) acquired the status of deemed owners as they have been in cultivating possession of land on tillers day and, therefore, the exemption certificate granted on 25th October, 1963 could not have been granted. In support of the submission reliance is placed on the judgment given by the Division Bench of this Court in the case of *Eknath Bhiku Yadav and another V/s. Ganpatrao Shankarrao Dhawan and others* reported in **2006(3) Mh.L.J. 288**. The submission is misconceived. The original tenants Bhikaji and Sitaram had not raised any challenge to the exemption certificate granted in favour of the Trust. The present petitioners have no right to raise the challenge at this stage. The present petitioners cannot acquire the tenancy rights by inheritance and Shri A.B. Mirza, learned Advocate for the respondent No.1, has rightly relied on the judgments given in the case of *Shriram Mandir Sansthan @ Shriram Sansthan Pusda V/s. Vatsalabai and others* reported in

1999(1) Mh.L.J.321 and in the case of *Sarda Education Trust V/s. Nandulal Vishwanath Tate and others* reported in **2000(2) Bom. C.R. 39.**

In find that the conclusions of the subordinate Authorities are based on proper appreciation of material on the record and do not require any interference by this Court in the extraordinary jurisdiction. The petition is **dismissed** with costs quantified at Rs.5,000/- (Rs. Five Thousand Only) to be paid by the petitioners to the respondents within three months.

C.A.W. NO.1944/2014.

In view of disposal of main petition, this application does not survive and is **disposed** accordingly.

JUDGE

Tambaskar.