

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

WRIT PETITION NO.3322 OF 2015

Kantilal Chandanmal Jain and anr.

-vs-

Yakubbeg s/o Haroonbeg 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 M. D. Zoting, Advocate for petitioners.

Shri A. P. Tathod, Advocate for respondent Nos.1 to
7.

Shri K. L. Dharmadhikari, AGP for respondent Nos.8
and 9.

CORAM : A.S.CHANDURKAR, J.

DATE : AUGUST 01, 2016

Heard.

The challenge in the present writ petition is to the order passed by the Maharashtra Revenue Tribunal, Nagpur on the revision applications filed by the petitioners herein under Section 111 of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (for short, the said Act).

The subject matter of dispute pertains to two lands which according to the petitioners were held by one Shafiullakhan as a tenant. According to the petitioners one Badrinarayan Agrawal was the original landlord of the said land which was being cultivated by said Shafiullakhan. An

application for surrendering the tenancy under Section 20 of the said Act came to be moved by the legal heirs of said Shafiullakhan. The Tahsildar on 19/05/2010 upheld the surrender of these two lands and directed return of the same to the original owner. Two appeals came to be filed before the Sub-Divisional Officer by the legal representatives of Haroonbeg on the ground that they had share in the said property and the tenancy was common between Sahfiullakhan and Haroonbeg. The Sub-Divisional Officer by order dated 30/03/2013 allowed both the appeals and remanded the proceedings to the Tahsildar for fresh adjudication. Being aggrieved by the order passed by the Sub-Divisional Officer, a revision application came to be filed by the legal heirs of Shafiullakhan but the said revision application came to be withdrawn on 11/10/2013. In the meanwhile the petitioners claiming to have purchased these lands from the original owner filed revision applications before the Maharashtra Revenue Tribunal challenging the order of remand passed by the Sub-Divisional Officer. By the impugned order, the revision applications have been dismissed and the order of remand stands confirmed.

Shri M. D. Zoting, the learned counsel for the petitioners submitted that the Revenue Tribunal was not justified in refusing to entertain the revision applications on

merits. According to him, there was no reason whatsoever to remand the proceedings for fresh inquiry especially when the Tahsildar after following the due procedure had accepted surrender of the land at the instance of the legal heirs of Shafiullakhan. He referred to the record of rights of the said lands and submitted that the land had been partitioned between Haroonbeg and Shafiullakhan and therefore there was no reason whatsoever to again remand the proceedings for fresh inquiry. According to him, these aspects were not considered by the Maharashtra Revenue Tribunal and the revision applications came to be dismissed.

Shri A. P. Tathod, the learned counsel for the respondent nos.1 to 7 supported the impugned order. According to him, the remand of the proceedings were justified as verification of the surrender of tenancy was necessary. The Tahsildar had accepted the surrender of the land without following the due procedure prescribed. He submitted that the petitioners were merely subsequent purchasers and only after the revision application filed by the legal heirs of Shafiullakhan had been withdrawn that the petitioners had filed separate revision applications. The aspect of surrender therefore required proper inquiry.

Shri K. L. Dharmadhikari, the learned Assistant Government Pleader appeared for the respondent Nos.8 and

9.

I have heard the respective counsel for the parties and I have perused the documents on record. In the proceedings initiated by the legal heirs of Shafiullakhan, the legal heirs of Haroonbeg had not been joined as parties. The Tahsildar merely accepted the statement made on behalf of the legal heirs of Shafiullakhan that they intended to surrender the land and the Tahsildar accepted the same. As the legal heirs of Haroonbeg were not joined as parties to the said proceedings they challenged the said order by filing appeal. Though the order of remand passed by the Sub-Divisional Officer was initially challenged by the legal heirs of Shafiullakhan, they accepted the same and withdrew the revision application. It is thereafter that the petitioners who claimed to be subsequent purchasers from the original owners filed two revision applications.

In the impugned order, the Revenue Tribunal has rightly observed that the legality of the sale-deed in favour of the petitioners. would depend upon the finding on the aspect of surrender. When the legal heirs of Shafiullakhan in whose favour the Tahsildar has passed an order which was subsequently set aside by the Sub-Divisional Officer had accepted the order of remand, the objection of the petitioners who were subsequent purchasers to the order of remand did

not carry much weight. The beneficiaries of the order of remand not being aggrieved by the same, the petitioners had no legal right to oppose fresh adjudication of the aspect of surrender. The Sub-Divisional Officer found that necessary inquiry as to the tenancy rights being joint or separate was necessary and therefore the proceedings had been remanded. Considering the mandatory nature of the procedure to be followed before the surrender under Section 20 of the said Act is declared to valid, the order remanding the proceedings cannot be faulted. The Maharashtra Revenue Tribunal has granted an opportunity to all the parties to contest the proceedings before the Tahsildar. In this background therefore, I do not find any case made out to interfere in writ jurisdiction. The writ petition is therefore dismissed with no order as to costs.

JUDGE

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

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