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

WRIT PETITION NO.202 OF 2015

Vishnu s/o Doulat Potdukhe and ors.
-vs-
Chintamani Parasnath Sansthan, Balapur Thr. its President and Managing Trustee at Balapur 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 H. D. Dangre, Advocate for petitioners.
Shri C. A. Joshi, Advocate for respondent No.1.
Ms T. Khan, AGP for respondent Nos.2 and 3.

CORAM : A.S.CHANDURKAR, J.
DATE : JUNE 21, 2016

Heard.

The challenge in the present writ petition is to the order passed by the Maharashtra Revenue Tribunal rejecting the application for condoning delay in challenging issuance of exemption certificate under Section 129 (b) of the Maharashtra Tenancy and Agricultural Land (Vidarbha Region) Act, 1958 (for short, the said Act). The said certificate was issued on 03/03/1960 while the same was sought to be challenged by filing a revision application on 24/07/2013.

The facts on record indicate that one Daulat Potdukhe was a recorded tenant of lands owned by the respondent No.1 Trust. The said trust initiated proceedings for issuance of exemption certificate. After recording the statement of the said tenant on 22/02/1960, the exemption certificate came to be issued on 03/03/1960. Thereafter said Daulat expired on 17/12/1984. In the year 1987 the trust initiated proceedings for eviction of the legal representatives under provisions of Section 120 of the said Act. An order came to be passed on 25/10/1988 directing eviction of the legal heirs. The revision application filed by the petitioners was dismissed in default and thereafter the restoration application was also dismissed for want of prosecution. It is thereafter on 24/07/2013 that another revision application seeking to challenge the exemption certificate came to be filed. The application for condonation of delay being dismissed the same is challenged in the present writ petition.

Shri H. Dangre, the learned counsel for the petitioner submitted that the legal heirs of the original tenant were illiterate. As advised at that point of time, they had challenged the order passed under Section 120 of the said Act by filing a revision application. He submitted that on the basis of advice received subsequently, the present proceedings came to be filed. According to him, the petitioners got knowledge on 24/05/2001 when they received notice calling upon them to hand over possession pursuant to the eviction order. He further submitted that the proceedings under Section 129(b) of the said Act were not conducted in accordance with law and therefore the delay in filing the revision application was required to be condoned.

Shri C. A. Joshi, the learned counsel for the respondent No.1 and Ms Khan, the learned Assistant Government Pleader for respondent Nos.2 and 3 supported the impugned order. Shri Joshi submitted that the order under Section 120 of the said Act had become final as the revision application filed by the petitioner was dismissed on 15/05/2015. He submitted that in the initial proceedings the statement of the original tenant was recorded. During his lifetime no steps were taken to challenge the exemption certificate. Similarly the legal heirs were also aware of this certificate as it was on that basis that the eviction proceedings were filed. He therefore submitted that there was no reason to interfere with the order passed by the Maharashtra Revenue Tribunal.

Having heard the respective counsel and having perused the documents on record, it can be seen that the statement of Daulat Potdukhe had been recorded on 22/02/1960. This was pursuant to a notice issued to him. During his lifetime the certificate dated 03/03/1960 was not challenged. In the proceedings under Section 120 of the said Act, it was specifically pleaded by the respondent No.1 that the exemption certificate had been issued to the Trust. These proceedings were filed in the year 1987. Hence, at that point of time, the legal heirs became aware of this certificate. The application for condonation of delay lacks in material details and the statement made that the petitioners did not have knowledge of the original order of exemption cannot be accepted in these facts.

In the light of aforesaid facts, the ground as taken for condoning delay does not appear to be acceptable. This aspect was considered by the Maharashtra Revenue Tribunal and I do not find that it committed any error when it refused to condone the delay. In view of aforesaid, I do no find any case is made out to interfere in writ jurisdiction. The writ petition is therefore dismissed with no order as to costs.

JUDGE

Asmita