

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10170/2013

Syed Sattar Syed Mirasaab,
Age: Major, Occu: Agriculture,
R/o: Sarola (Bk.), Tq. Pathri,
District Parbhani.

...PETITIONER

Versus

1. Vaijnath Babural Bulange,
Age: Major, Occu: Agriculture,
R/o: Sarola (Bk.), Tq. Pathri,
District Parbhani.
2. Datta Baburao Bulange,
Age: Major, Occu: Agriculture,
R/o: Sarola (Bk.), Tq. Pathri,
District Parbhani.
3. Subabai Narayan Bulange,
Age: Major, Occu: Household,
R/o: Sarola (Bk.), Tq. Pathri,
District Parbhani.
4. Fatimabi Syed Mirasab,
Age: Major, Occu: Household,
R/o: Sarola (Bk.), Tq. Pathri,
District Parbhani.
5. Abeda Azizmiyan,
Age: Major, Occu: Agriculture,
R/o: Pethbabhalgaon Tq. Pathri,
District Parbhani.
6. Ashabi Syed Lalmiyan,
Age: Major, Occu: Household,
R/o: Sarola (Bk.), Tq. Pathri,
District Parbhani.

7. Daultabi Lalmiyan,
Age: Major, Occu: Household,
R/o: Sarola (Bk.), Tq. Pathri,
District Parbhani.
8. Syed Vazir Syed Bashumiyan,
Age: Major, Occu: Agriculture,
R/o: Sarola (Bk.), Tq. Pathri,
District Parbhani.
9. Syed Nazir Syed Bashumiyan,
Age: Major, Occu: Agriculture,
R/o: Sarola (Bk.), Tq. Pathri,
District Parbhani.
10. Syed Chand Syed Miyanbhai,
Age: Major, Occu: Agriculture,
R/o: Sarola (Bk.), Tq. Pathri,
District Parbhani.
11. Syed Khajamiyan Syed Mirasab,
Age: Major, Occu: Agriculture,
R/o: Sarola (Bk.), Tq. Pathri,
District Parbhani.
12. Manik Kondiba Wagh,
Age: Major, Occu: Agriculture,
R/o: Sarola (Bk.), Tq. Pathri,
District Parbhani. ...RESPONDENTS

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Mr. Avinash N. Patil, Advocate for Petitioner.
Mr. J.S. Gavane, Advocate for Respondents No.1 to 3.
Mr. R.B. Shingare, Advocate for Respondents No.5, 6,
8, 9 and 11.
Mr. G.C. Navandar, Advocate for Respondent No.12.
Respondents No.4, 7 and 10 are deleted as per
Hon'ble Court's order dated 08.08.2014.

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CORAM : T. V. NALAWADE, J.

DATED : 06TH JULY, 2017.

ORAL ORDER :-

1. The petition is filed to challenge the decision of Maharashtra Revenue Tribunal given in Appeal No. 39/A/2010/P.
2. Heard both the sides.
3. The petitioner is legal heir of one Miyabhai. Miyabhai was tenant in land Survey No.13 (Gat No.22) admeasuring 7 Hectare 97 R, situated at village Sarola (Bk.) Tahsil Pathri. In a proceeding he was declared as protected tenant and purchase price was also fixed. Purchase price was not paid. The possession remained with the owner. The another proceeding under Section 98(c) of aforesaid Act was started by legal heirs of Miyabhai including the present petitioner. In this proceeding on 07.02.1997 compromise document was filed. Present petitioner had given power of attorney to Syed Chand. Similarly other three legal heirs had given power of attorney to Syed Chand. Syed Chand was also legal heir of the original tenant. Other four legal heirs remained present before the authority, and they put their

thumb impressions on the compromise document, and they admitted the compromise. They admitted that, in the year 1972 itself it was declared in tenancy proceedings that, Miyabhai was no more tenant and the tenants right were given up. In view of this compromise, the proceeding came to be disposed of. Case No.2003/H/TNC/38/19 was then filed by present petitioner again under provision of Section 98(c). He contended that, there was no such compromise. Considering the development like non-payment of the purchase price by Miyabhai, the Deputy Collector declared that the land shall vest in the State Government. Submission was made that, the said decision was also challenged by respondents, owners and the said decision vesting of land to the State of Government had been set aside. In the mean time another proceeding bearing No. 2004/H/TNC/98(i)/35 was started in the year 2004, and was decided on 30.09.2010. The Deputy Collector allowed the proceeding of present petitioner Syed Sattar and Syed Khaja, and held that, they are entitled to get possession as legal heirs of original protected tenant. This decision was challenged in Appeal No.39/A/2010/P of 2010, the decision of which is under challenge. The Maharashtra Revenue Tribunal has held that, the compromise is binding on present

petitioner, and the decision given by Deputy Collector in proceeding bearing No.2004/H/TNC/98 (i) /35 is set aside.

4. It appears that, the Deputy Collector had given decision in favour of present petitioner as he could not ascertained that there was power of attorney given by present petitioner. The order of the previous Deputy Collector shows that, he had verified everything. However, there is one more circumstance. One more proceeding was pending between the parties like Regular Civil Suit No. 111/2003 which was filed by the then owner for relief of declaration. Though it can be said that, the tenancy point could not have been decided by the Civil Court, the legal heirs of original tenant including present petitioner had filed consent written statement and so, the Manikrao Wagh was declared as owner and decree was given in his favour. This circumstance needs to be read with aforesaid proceedings which were decided under Tenancy Act. It can be said that, the matter which was closed in the year 1972 was again opened, and again some amount was given to the legal heirs of the original tenant, and then they filed compromise before the Deputy Collector. All the circumstances are considered by Maharashtra Revenue Tribunal. When the

parties admitted that, the tenancy rights were given up in the year 1972, they cannot be allowed to open that issue again. There is no possibility to interfere in the decision given by Maharashtra Revenue Tribunal. Hence, petition stands dismissed.

[T. V. NALAWADE, J.]

vjg/-