

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**LETTERS PATENT APPEAL NO.6 OF 2017
IN
WRIT PETITION NO.6184 OF 2012**

**Mrs. Bhaniben Vallabh Widow of
Late Mr. Vallabh Khalpa and others**

..Appellants

Versus

**Quessou Calan @ Keshavbhai
Kalyanbhai Tandel and others**

..Respondents

**Shri. Vikram Chavan a/w Sheetal Thakur & Sonia Redkar for the
Appellants.**

**Shri. Paritosh Jaiswal a/w Shri. Rubin Vakil i/by Ashok Purohit & Co.,
for the Respondent Nos.1 to 4.**

**CORAM : R. M. SAVANT &
SMT. SADHANA S. JADHAV, JJ
DATE : 1st JULY, 2017**

PC.

1 The above Letters Patent Appeal filed by the original Writ
Petitioners challenges the order dated 20.10.2012 passed by a Learned
Single Judge of this Court. By the said order, the above Writ Petition
came to be disposed of in terms of the observations made in the said
order.

2 The subject matter of the above Writ Petition was the order
dated 25.01.2012 passed by the Administrative Tribunal, Daman at
Daman in Appeal No.1 of 2011. The matter had reached the

Administrative Tribunal as proceedings were initiated by the Appellants herein taking exception to the entry in the record made in favour of one Budhiben Ranchhod in respect of the land in question on 12.07.1974. The said entry was taken exception to on the ground that it was the Appellants' predecessor in title Vallabh Khalpa who was in cultivation and possession of the land in question and has been recorded as the occupant and therefore the said Budhiben Ranchhod is a tress passer. The said application filed by the Appellants before the Mamlatdar, Daman came to be rejected by the Mamlatdar on 07.07.2010. Thereafter the Appellants filed an Appeal before the Collector, Daman. The Collector, Daman by order dated 07.02.2011 dismissed the Appeal. It is against the order passed by the Collector, Daman dated 07.02.2011 that the Appellants filed an Appeal before the Administrative Tribunal. The Administrative Tribunal has by the order impugned in the Writ Petition i.e. impugned order dated 25.01.2012 dismissed the Appeal on the grounds mentioned in the said order. In the context of the challenge raised in the present LPA, it is required to be noted that the Administrative Tribunal has observed in paragraph 10 of its order that the said Budhiben Ranchhod had questioned the entry made in the name of Vallabh Khalpa after coming into force of the Daman (Abolition of Proprietorship of Villagers) Regulation, 1962. In the said proceedings, the said Vallabh Khalpa

appeared and gave his no objection to the recording of the name of the said Budhiben Ranchhod. This seems to be the foundation of the orders passed by the authorities below as well as the Administrative Tribunal. As indicated above, the said order dated 25.01.2012 passed by the Administrative Tribunal, Daman was taken exception to by way of the above Writ Petition.

3 The Learned Single Judge of this Court considering the right that the Petitioners were seeking to assert, as agricultural tenants and on the said basis claiming that the entry in the revenue record should be in their name as their predecessor in title Vallabh Khalpa was in cultivation and possession on the appointed day, was of the view that it is for the Appellants/Petitioners to adopt appropriate proceedings including the filing of a civil suit to assert their right which they claim qua the land in question and accordingly disposed of the above Writ Petition.

4 The Learned Counsel appearing on behalf of the Appellants Shri. Vikram Chavan would seek to reiterate the case which was urged before the Learned Single Judge whilst prosecuting the above Petition.

5 In our view, having regard to the fact that the Petitioners claim a right qua the land in question as agricultural tenants, the course

of action propounded by the Learned Single Judge by the impugned order does not warrant any interference as it is only by filing appropriate proceedings or by filing a civil suit that the Petitioners can assert such right and not by way of prosecuting the instant proceedings. In that view of the matter, no case for interference is made out. The Letters Patent Appeal is accordingly dismissed.

6 Needless to state that if any proceedings are filed or a civil suit is filed, the same would be tried on their / its own merits and in accordance with law.

7 Needless to state that the contentions of the parties are kept open for being urged at the appropriate time.

[SMT. SADHANA S. JADHAV, J]

[R.M.SAVANT, J]