

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

**WRIT PETITION NO. 10184 OF 2016**

Smt. Devkibai Devaji Patil & Ors. ..Vs.. Shri Vaktarmal Juharmal Jain (since deceased through L.Rs.)

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| Office Notes, Office Memorandum of appearances, Court's orders or directions & Registrar's orders. | Court's or Judge's orders |
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Mr. Vijay S. Gharat for Petitioners.

None for Respondent.

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**CORAM : K. K. TATED, J.**

**DATE : JUNE 28, 2017.**

**P.C. :**

. Heard learned Counsel for Petitioners.

2. By this petition under Article 227 of the Constitution of India, Petitioners are challenging the order dated 4<sup>th</sup> January, 2001 passed by Tahsildar, Pen in Tenancy Case No. 15 of 1999, the order dated 29<sup>th</sup> July, 2002 passed by Sub Divisional Officer, Alibaug Sub Division, Alibaug and Judgment and order dated 23<sup>rd</sup> April, 2013 passed by President, Maharashtra Revenue Tribunal, Mumbai in Tenancy Revision No. 49/B/2002.

3. By this petition, Petitioners are challenging the concurrent findings of fact recorded by the Authorities below. It is the contention of Petitioners that they stopped paying the rent to the Respondent because he was not the owner of the suit property.

4. It is to be noted that Joint Civil Judge, Junior Division, Pen in Regular Civil Suit No. 50 of 2004 categorically declared that the Respondent is the owner of the suit property. In that suit, Civil Court, Pen framed the following issues and answered them, which read thus :

*“1. Does the plaintiff prove that, he is in exclusive possession of property mentioned in the suit ?*

*2. Does the plaintiff prove that he is having exclusive ownership across the above property ?*

*3. Whether the defendants prove that, they are having interest in the suit property ? If yes, what interest ?*

*4. Whether the plaintiff is entitled to injunction as prayed ?*

*5. What order and decree ?”*

5. Considering the fact that Civil Court has categorically declared the Respondent as owner, I find that the Petitioners failed and neglected to pay the rent as per Maharashtra Tenancy & Agricultural Lands Act, 1948 for more than three years.

6. In view of the subsequent development, Writ Petition is rejected.

7. No order as to costs.

**(K.K.TATED, J.)**