

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

WRIT PETITION NO. 9978 OF 2016

The Estate Investment Company Pvt. Ltd., ... Petitioner.

V/s.

The State of Maharashtra & 9 Others ... Respondents.

Ms. Shakuntala A. Mudbidri, Advocate for the Petitioner.

Mr. Vikas Mali, AGP for the State -Respondent Nos. 1 to 3.

Mr. Nitin Gangal, Advocate for Respondent No.4.

**CORAM : NARESH H. PATIL AND
SMT. BHARATI H. DANGRE,JJ.**

DATE : 06th JUNE, 2017

P.C. :

1 By this petition, the petitioner prays for grant of following main reliefs.

a) Direct Respondent Nos. 1 to 3 particularly Respondent No. 2 to produce the File -A of Case No. V.R. No. 208 i.e. all original record and proceedings including the Inward Register for the year 1969-1970 as also the original order dated 16th April, 1970 passed by the Tahsildar and ALT, Thane in Tenancy Case No. V. R. No. 208 in the matter of Mukund Chima Vaity Vs. The Estate

Investment Co. Pvt. Ltd., which are classified as File-A, before this Hon'ble Court;

b) Respondent Nos. 1 to 3, particularly Respondent No. 2 be directed to hand over certified copies of entire File-A of Case No. V.R. No. 208 including the copies of original record and proceedings as well as the order dated 16th April, 1970 passed by the Tahsildar and ALT, Thane in Tenancy Case No. V. R. No. 208 in the matter of Mukund Chima Vaity vs. The Estate Investment Co. Pvt. Ltd.;

c) Costs of this petition be provided to the Petitioner;

d)

2 The Respondents concerned filed application under section 70-B of the Bombay Tenancy and Agricultural Land Act, 1948 before the Tahsildar and ALT, Thane. By order dated 01.10.2009, the Tahsildar, Thane, allowed the application of the Respondents. The said order was challenged by the present Petitioner by way of an Appeal bearing Tenancy Appeal No. 07/2010 before the Sub-Divisional Officer, Thane Division, Thane. Vide order dated 24.09.2010, the Sub-Divisional Officer, dismissed the said Appeal. Against the said order of the SDO, a revision application was preferred by the Petitioner before the Maharashtra Revenue Tribunal, Mumbai.

The learned Tribunal vide order dated 01.10.2013, dismissed the revision application. Thereafter, a writ petition bearing No. 410 of 2014 came to be filed in this Court. The learned single Judge of this Court (Coram : M.S. Sonak, J.) upheld the findings of all the authorities below and dismissed the writ petition vide order dated 09.02.2015. Against this order a Special Leave Petition (C) No. 12102 of 2015 was filed by the present petitioner before the Apex Court. The Apex Court upon hearing the counsels, made the following order :

“ORDER

“It is submitted by the learned counsel for the petitioner that the respondents at one point of time been declared by the competent authority that they are not the tenants. As no document had been filed before the High Court, liberty is granted to the Petitioner to file an application for review alongwith the documents within four weeks hence. If the application for review is filed within four weeks from today, the same shall be disposed of on merits and not to be thrown at the threshold on the ground of limitation.

The special leave petition is, accordingly, disposed of.”

3 In view of the above order of the Apex Court, granting liberty to the present petitioner to file an application for review of the order dated 09.02.2015, the petitioner filed Review Petition No. 26 of 2016 in W.P. No. 410 of 2014 before the single Judge of this Court, which was also rejected.

4 The learned counsel appearing for the petitioner submits that according to the record maintained by the Petitioner, the predecessor of the Respondents must have filed an application under section 70-B of the Bombay Tenancy and Agricultural Lands Act, 1948, which came to be rejected. According to the petitioner out of four such applications that were considered and decided by the concerned authorities, one of the applications was filed by the predecessor of the present Respondents. Except this, the petitioners did not have any other material in support of their contentions.

5 Learned counsel for the petitioner submits that the concerned authorities are bound to supply the copies of the application filed by the predecessor of the Respondent in accordance with the civil manual.

6 Learned counsel appearing for the Respondent No. 4 submits that the identical submissions were made by the petitioners before the concerned authorities. Their contentions were negated. The Petitioner failed to convince the High

Court and the Apex Court. Review petition filed by petitioner came to be dismissed by the single Judge of this court vide order dated 10.06.2016. The issues is finally concluded.

7 The learned AGP placed reliance on the relevant portion of para 6 of the affidavit-in-reply filed by one Kisan Kacharu Bhadane, the Tahsildar, Thane, wherein the deponent has stated that :

“I respectfully submit that the Petitioner has to produce the secondary evidence of the order and the proceedings in question to justify the authenticity of the proceedings/ order in question. I respectfully submit that it is manifestly clear that the answering Respondent has kept available the record of the tenancy cases in the record room right from the year 1957.”

8 We have perused the record placed before us. Considering the submissions so advanced by both the sides, we do not find any substance in the submission of the petitioner that there must be an order passed on the application filed by the predecessor of the Respondents under section 70-B of the Act and that order was not made available to the petitioner. According to the concerned authorities the order is not in existence and therefore they are not in a position to supply

such an order. This issue was raised by the present petitioner before the Tahsildar, SDO, MRT, the High Court and the Apex Court, wherein the petitioners failed to convince the courts. As observed above, in a review petition filed by the Petitioners, they again failed to convince the court.

9 In this view of the matter, we do not find that the Petitioner is entitled to raise this issue again in a writ petition before this court.

10 In the result, there is no merit in the present petition. It is dismissed with cost of Rs. 25,000/-. The amount of cost to be deposited with the registry within four weeks. The Respondent Nos. 4 to 10 are entitled to withdraw the amount of cost.

(SMT. BHARATI H. DANGRE,J.)

(NARESH H. PATIL,J.)

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