

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

SECOND APPEAL NO.232 OF 2017

Sindhutai Pundlikrao Deshmukh and ors

..VS..

Prashant Anandrao Deshmukh and ors

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri N.R. Saboo, Counsel for the appellants.

Shri J.J. Chandurkar, Counsel for the respondents.

CORAM : V.M. DESHPANDE, J.

DATED : NOVEMBER 30, 2017.

1. Heard learned counsel Shri N.R. Saboo for the appellants and learned counsel Shri J.J. Chandurkar for the respondents.

2. After hearing both learned counsel for the parties, the appellants have made out a case for admission. The appeal is **ADMITTED** on following substantial questions of law:

(i) When once plaintiffs pleaded possession of the appellants as tenants over the suit property, whether the suit for possession filed by plaintiffs is maintainable in Civil Court in view of bar created under the The Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958?

(ii) Whether surrender of tenancy through a Pursis Exhibit 15 filed under the signature of counsel is a valid surrender of tenancy in view of Section 20 The Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958?

(iii) Whether both the Courts below have correctly applied law laid down by this Court in the case of Gajanan Maharaj Sansthan, Shegaon ..vs.. Digambar s/o Pandhari Bhise, reported at 2005(1) Mh.L.J. 1108?

(iv) Whether the respondents are entitled to claim decree of possession in view of the Full Bench decision of this Court in the case of Madhao ..vs.. Maharashtra Revenue Tribunal, Nagpur and ors, reported at 1970 Mh.L.J. 1991?

3. Learned counsel Shri J.J. Chandurkar waives service for the respondents.

Civil Application (CAS) No.421 of 2017

1. This is an application for Stay.
2. Heard learned counsel Shri N.R. Saboo for the applicants/appellants and learned counsel Shri J.J. Chandurkar for the respondents.
3. While issuing Notices on 4.5.2017, the parties were

directed to maintain *status quo*, until further orders.

4. Today, after hearing learned counsel for both the parties, the second appeal is admitted since it involves substantial questions of law.

5. It is not in dispute that the applicants/appellants are in possession of the agricultural land and they are cultivating the same.

6. In that view of the matter, the application is allowed. There shall be Stay to the effect and operation of the judgments and decrees passed by both the Courts below during pendency of the second appeal on condition that the applicants/appellants shall not create any third party interest whatsoever in nature in respect of the suit property and also shall not hand over the possession to anybody. The applicants/appellants are also directed to deposit Rs.5,000/- per annum before this Court. Such amount shall be paid on or before 30th of April of each succeeding year. On such deposit, it shall be open for the respondents to move an application for withdrawal.

7. The civil application is allowed and disposed of.

JUDGE

!! BRW !!

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