

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

WRIT PETITION NO. 1368 OF 2016

(Prabhu Nana Garje (dead), Thr. L. R's. and Others...VS...Shri Mahavir Bramhacharyashram Karanja,
Public Trust, District Washim and Others)

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

Court's or Judge's orders

Shri R. L. Khapre, Advocate for Petitioners.
Shri S. V. Manohar, Senior Advocate with Shri M. R. Joharapurkar
Advocate for the Respondents.

CORAM : S.C.GUPTE, J.

DATED : 28th AUGUST, 2017.

Heard learned counsel for the parties.

This petition challenges an order passed by Maharashtra Revenue Tribunal at Nagpur in a revision application from an eviction order passed under Section 120(c) of the Bombay Tenancy and Agricultural Lands (Vidharbha Region) Act, 1958 ("Act"). The question involved in the present petition is : whether or not Section 37 of the Act is excluded in its application to lands which are the property of a trust for educational purpose or an institution for public religious worship. This question has already been decided by the Hon'ble Supreme Court in the case of **Shriram Manndir Sansthan @ Shri Ram Sansthan Pusda and Vatsalabai and Others, 1999(1) Mh. L. J. 321**. The Hon'ble Supreme Court, after considering the provisions of Section 129 read with Section 37 of the Act, which forms part of Chapter II of the Act, has observed that Section 37 is expressly excluded from application to the tenancies of such trusts. The Court in clearest of terms has noted and laid down that in the case of tenancy of such trust, preservation of rights

and privileges of a tenant under any law for the time being in force is excluded. The heritability claimed in the present matter in respect of the tenancy is under the previous law operating on the subject, and is sought to be preserved under Section 37 of the Act. The Hon'ble Supreme Court having expressly noted exclusion of application of Section 37 to tenancies such as the one in the present case, there is no question of preserving such heritability on that footing. There is, accordingly, no merit in the challenge. The impugned orders are passed on correct principles of law.

This is the only question of law which really arises in the present matter. Other findings of the authorities below, though challenged in the petition, are pure findings of the fact and there is nothing really to assail those findings.

There is, in the premises, no merit in the petition. The petition is dismissed. No order as to costs.

CIVIL APPLICATION (CAW) NO.1286 OF 2017.

In view of the order passed on the main petition, nothing survives in the application for amendment, which was to be heard alongwith the main matter, and accordingly, Civil Application No.1286 of 2017 is also disposed of.

JUDGE

PBP