

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 WRIT PETITION NO. 7587 OF 2017

GURLINGAPPA ONKARAPPA APCHE DIED LRS TATYARAO
GURULINGAPPA APCHE AND OTHERS
VERSUS
SMT. PUTALABAI CHANBASAPPA PATIL DIED LRS MALLINATH
CHANBASAPPA PATIL AND OTHERS

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Advocate for Petitioners : Mr. Patne Santosh N.
Advocate for Respondent No.1 : Mr. U. R. Awate
AGP for Respondent Nos. 2 to 6-State : Mr. S. P. Tiwari

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CORAM : V. K. JADHAV, J.
DATED : 15th FEBRUARY, 2018

PER COURT:-

1. Heard finally by consent at admission stage.
2. By way of this Writ Petition, the order passed by the Minister dated 17.09.2016 has been challenged. It is the case of the petitioners that they are the protected tenants over the suit land and the petitioners have been forcibly dispossessed by the landlord.
3. Respondent no.1 Putalabai, who is also no more, was the widow of late Chanbasappa Patil, who happened to be the

original landlord. Deceased Putalabai had filed an application dated 29.11.2006 before the Tahsildar, Omerga requesting therein to record her name in the cultivation column of 7/12 extract in respect of the suit property. The said application has been forwarded by the Tahsildar to the Circle Officer, Murum for inquiry. Thus, after considering the report submitted by the Circle Officer, Murum and after following the procedure, the learned Tahsildar has caused to take entry of the name of deceased Putalabai in the cultivation column of the suit property. Though the petitioners have raised an objection against the said mutation entry, the objection was overruled by order dated 15.12.2006 passed by the learned Tahsildar, Omerga. Aggrieved by the said order dated 15.12.2006 passed by Tahsildar, Omerga, the petitioners herein have preferred appeal before the Sub-Divisional Officer, Osmanabad. The Sub-Divisional Officer, Osmanabad allowed the appeal filed by the petitioners by order dated 05.01.2009. Aggrieved by the same, deceased Putalabai has preferred an appeal before the Additional Collector, Osmanabad and the Additional Collector, Osmanabad has dismissed the said appeal preferred by deceased Putalabai. Aggrieved by the order dated 19.03.2009 passed by the learned

Additional Collector, Osmanabad, the respondent-deceased Putalabai preferred a Revision before the Divisional Commissioner, Aurangabad Division, Aurangabad and the learned Divisional Commissioner has also rejected the said Revision. Aggrieved by the same, deceased Putalabai approached the Minister and the Hon'ble Minister quashed and set aside the order as aforesaid and confirmed the order passed by learned Tahsildar, Omerga.

4. Meanwhile, since the petitioners, who happened to be the protected tenants, when claiming forcible dispossession at the hands of the landlord, approached to the Deputy Collector (Land Reforms), Osmanabad. The learned Deputy Collector (Land Reform) has allowed the application filed by the petitioners and restored their possession over the suit land by order dated 30.03.2011. Aggrieved by the same, the legal heirs of deceased Putalabai preferred an appeal before the Maharashtra Revenue Tribunal, Aurangabad and by order dated 10.12.2014, the learned Member of the M.R.T. has quashed the order passed by the Deputy Collector (Land Reform), Osmanabad and placed the present petitioners at liberty to pursue the application directed

by them under Section 32(1) of the Hyderabad Tenancy and Agricultural Lands Act, 1950 before the Tahsildar. The Member, M.R.T. has further directed that the Tahsildar shall decide the application as early as possible after giving opportunity of hearing to both the parties.

5. In view of the aforesaid directions of the learned Member, M.R.T., the petitioners have approached the Tahsildar (Tenancy) at Omerga and the learned Tahsildar, by order dated 31.07.2017, has rejected the said application. Being aggrieved by the same, the petitioners have preferred an appeal before the Deputy Collector (Tenancy), Osmanabad and the said appeal is still pending.

6. In view of the above history, if the petitioners are seeking restoration of their possession over the suit property before the competent authority, then, the order passed by the Hon'ble Minister would obviously be subject to the orders passed by the competent authority under the provisions of the Hyderabad Tenancy and Agricultural Lands Act, 1950. Since the petitioners themselves are claiming forcible dispossession at the hands of

the landlord/legal heirs of the landlord, there is no question of challenging the entry recorded in the cultivation column as directed by the Hon'ble Minister on the ground that the said entry would cause prejudice to the contention raised by the petitioners in their pending appeal before the Deputy Collector (Tenancy). It is for the Deputy Collector (Tenancy), to consider the contention raised by the petitioners independently and without getting prejudiced by the order passed by the Hon'ble Minister in any manner. In view of the above discussion, the Writ Petition is disposed of. No costs.

(V. K. JADHAV, J.)

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