

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

SECOND APPEAL NO.800 OF 2017

Anandrao Gopal Varnekar

..Appellant

vs.

The Collector

...Respondent

Mr.Nikhil Wadikar i/b Mr. Nandu V. Pawar for the Appellant .

Mr. A.R. Patil, AGP for the Respondent.

CORAM : A. M. DHAVAL, J.

DATE : 11th SEPTEMBER, 2018.

P.C.:

. Heard Mr.Wadikar, learned counsel holding for Mr. Nandu Pawar for the appellant. This is plaintiffs appeal against the concurrent finding recorded against him by both the Courts.

2. The plaintiff had filed Regular Civil Suit No.156/2009 contending that by the registered deed dated 16/6/1994 he had taken *mirashi* tenancy rights permanently from the erstwhile tenant of the land belonging to “Padmavati Devi” Deosthan. He had earlier filed suit for perpetual injunction against the legal heirs of earlier tenant and said suit was decreed. Thereafter he has filed present suit against the Collector and Tahsildar for direction that they should record his name in 7/12 extract as Mirashi tenant. Both the Courts held that they have no jurisdiction. Hence, the second appeal.

3. The learned advocate for the appellant relied on *SantaKumari vs. Lakshmi Amma Janaki Amma, (2000) 7 Supreme Court Cases 60*. He

argued that a short question involved in the present case is regarding interpretation of documents of which the Civil Court has jurisdiction and the question of interpretation of documents is also a substantial question of law. The above stated judgment is not applicable to the present case as it was in respect of the issues in which the Civil Court had jurisdiction.

4. The present case is about agricultural tenancy. The appellant claims that he has purchased tenancy rights from the earlier tenant. In the earlier suit as well as the present suit landlord has not been made party. It is argued that the landlord was held not to be a necessary party, I find that as per section 85 of the Maharashtra Tenancy and Agricultural Lands Act, the jurisdiction of Civil Court is ousted for all purposes. In this regard, I rely on the judgment of *Thakubai Maruti Tupe Vs. Ankush Hiranman Magar, 1991 (2) Mah.L.J.1465*, wherein it is observed as follows:

“However, the Agricultural Lands Tribunal, Haveli, having once adjudicated on this point, though wrongly, that the tenants were not entitled to the protection of the Tenancy Act including the provisions of compulsory purchase on account of the inclusion of the land within the limits of the Municipal Corporation of Pune. Now, it is not open to the Civil Court and also this Court in second appeal to ignore that adjudication on the ground that it was not in accordance with the legal position. It is well established that a Tribunal of competent jurisdiction can decide a matter rightly or wrongly and, therefore, merely because the decision given by such a Tribunal of limited jurisdiction is not in accordance with law, parties thereto are not entitled to ignore it.”

5. The issue is to be considered by the Competent Authority under the Maharashtra Tenancy and Agricultural Lands Act and not by a Civil Court. The said suit should not have been entertained. Besides in a claim for tenancy the landlord is a necessary party and without whom there cannot be confirmation of title.

6. The Civil Court cannot issue direction to the revenue authorities to take revenue entries but if Civil Court decides the rights of the parties to the land, Revenue Courts are bound to give effect to that Civil

Court decision in revenue records. In the present case the appellant should have approached the Competent Authority. Civil Courts cannot direct the Revenue authorities to make entries in the mutation extract. Declaration sought above is barred by section 85 of the Maharashtra Tenancy and Agricultural Lands Act. Therefore, no substantial question of law is raised. Hence, no interference is called for. The Appeal is dismissed in limine.

(A. M. DHAVAL, J.)

Rajeshwari
Subodh
Karve

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