

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.12450 OF 2018

Aparna Chandrakant Borkar] Petitioner
Vs.
Madhukar Shankar Padlekar & Ors.] Respondents

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Mr. S.G. Karandikar i/b Mandar Limaye, learned Counsel for the Petitioner.
Mr. J.M. Joshi, learned Counsel for Respondent No.1.

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CORAM : R.G. KETKAR, J.

DATE : 18th DECEMBER, 2018.

P.C.

Heard Mr. Karandikar, learned Counsel for the petitioner and Mr. Joshi, learned Counsel for respondent No.1.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 27th August, 2018 passed by the learned President, Maharashtra Revenue Tribunal, Mumbai (for short 'Tribunal') in Revision Application No. REVE/RTN/274/2018. By that order, the Tribunal allowed the revision application preferred by the respondents herein and set aside the order dated 31st December, 2015 passed by Tahasildar, Dapoli in proceedings under section 70 (b) of the Maharashtra Tenancy and Agricultural Lands Act (for short 'Act') as also the order dated 13th February, 2017 passed by the Sub Divisional Officer, Dapoli (for short 'S.D.O;') in Tenancy Appeal No.5 of 2016.

3. Rule. Mr. Joshi waives service. Having regard to the narrow controversy raised in this Petition as also at the request and by consent of learned Counsel for the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

4. The petitioner herein had filed proceedings under section 70 (b) of the Act for declaration of her tenancy rights under section 4(2) of the Act in respect of Gat No.169 admeasuring 0.02.50 plus P.K 0.00.50 situate at Mauje Saldure, Taluka Dapoli. By order dated 31st December, 2015, Tahsildar, Dapoli allowed the application made by the petitioner and held that the petitioner is cultivating the suit land for more than 12 years and accordingly declared her as tenant.

5. Aggrieved by that decision, the respondents preferred appeal under section 74 of the Act before S.D.O. By order dated 13th February, 2017, S.D.O dismissed the appeal. Aggrieved by these decisions, the respondents preferred revision application under section 76 of the Act before the Tribunal. As mentioned earlier, the Tribunal allowed the revision and set aside the orders of Tahasildar and S.D.O.

6. The matter was heard at length on 17th December, 2018 and was kept today for passing orders. Learned Counsel for the parties submit that without giving reasons, all orders passed by the Authorities be set aside and matter may be restored before Tahasildar, Dapoli for deciding the proceedings afresh keeping all contentions of the parties on merits open.

7. In view thereof, by consent of the parties, the order dated 31st December, 2015 passed by Tahasildar, Dapoli, order dated 13th February, 2017 passed by S.D.O, Dapoli and the order dated 27th August, 2018 passed by the

Tribunal are set aside. Proceeding instituted by the petitioner under section 70 (b) of the Act are restored to the file of Tahasildar, Dapoli for deciding afresh in accordance with law. Tahasildar, Dapoli will deal with evidence adduced by the parties. All contentions of the parties on merits are expressly kept open.

8. The parties agree that they will appear before Tahasildar, Dapoli on 7th January, 2019 and for that purpose, no fresh notice be issued to them. Tahasildar, Dapoli will fix the suitable date and dispose of the proceedings on the basis of the evidence on record as expeditiously as possible and in any case, within 8 weeks from fixing suitable date. Rule is made absolute with no order as to costs. Order accordingly.

[R.G. KETKAR, J.]