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

WRIT PETITIOIN NO.4505 OF 2004

Babusaheb @ Rajaram Hindurao & Anr.

..Petitioners

Vs

Ganapati Sidu Patil Deceased
through LRs

..Respondents

Mr. Amit Borkar for the Petitioner.

Mr. P.S.Bhavake for respondent Nos.1A and 1B.

Ms. M.S. Bane, AGP AGP for the State.

CORAM : A.S.GADKARI, J.

DATE : 1st July 2019.

P.C.

1] By the present petition under Article 227 of the Constitution of India, the petitioners have challenged concurrent finding recorded by all the three Revenue Authorities below.

2] Heard Shri Borkar, the learned counsel for the petitioners, Shri Bhavake, the learned counsel for the respondents and the learned AGP. Perused the record annexed to the petition.

3] The claim of the respondents as tenants of petitioners pertaining to land i.e. Revised Survey No.40 (Gat No.72) at village Mahe, has been accepted by the Agricultural Lands Tribunal, Taluka Karveer,

District Kolhapur in Tenancy Case No.37 of 1970 by its Order dated 25.1.1983 on the basis of admitted fact that, the respondents were and are in actual possession of the suit land and cultivating the same.

Being aggrieved by the Order of the A.L.T., the petitioners preferred an Tenancy Appeal bearing No.81 of 1983 before the Special Land Acquisition Officer No.14, Kolhapur. The said appeal has been dismissed by the said Authority by its Judgment and Order dated 24th February 1984. Thereafter the petitioners preferred a Revision bearing No.MRT.KP/123 of 1984 before the Maharashtra Revenue Tribunal, Kolhapur under Section 76 of B.T.A.L. Act. The said Revisions has been turned down by the learned Member of Maharashtra Revenue Tribunal, Kolhapur by its Judgment and Order dated 8th December 1999.

4] As noted earlier, there are concurrent findings recorded by all three Authorities below. The pleadings and arguments of the petitioners amounts to reappreciation of evidence on record.

The Supreme Court in the case of *Maruti Bala Raut Vs. Dashrath Babu Wathare & Ors.* reported in AIR 1974 SC 2051, has held that, the Tribunal while exercising its powers under Section 76 of the said Act, has no power to deal with the matter as an Appellate Authority and was not

therefore entitled to appreciate the evidence and come to its own conclusion. It is further held that, the High Court while exercising its powers under Article 227 of the Constitution of India was not entitled to discuss the evidence and come to its own conclusion on the evidence as to who was in possession of the land. That was a matter for Revenue Authorities.

5] The Supreme Court in the case of *Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil*, reported in (2010) 8 SCC 329 has enumerated the principles in the exercise of High Court's jurisdiction under Article 227 of the Constitution of India. It is held that, the High Courts cannot, at the drop of a hat, in exercise of its power under Article 227 of the Constitution, interfere with the Orders of tribunals or courts interior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases, where an alternative statutory mode of redressal has been provided, that would also operate as a restraint on the exercise of this power by the High Court. That, the High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic

principles of natural justice have been flouted.

It is further held that, in exercise of its power of superintendence, the High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words, the jurisdiction has to be very sparingly exercised. That, the power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.

The afore-stated view expressed in the case of *Shalini S. Shetty (Supra)* has been further affirmed by the larger Bench of the Supreme Court in the case of *Radhey Shyam & Anr. Vs. Chhabi Nath and Ors. Reported in (2015) 5 SCC 423*.

6] The record clearly indicates that, the petitioners have failed to prove their case that, the respondents were and are not their tenants in suit lands. It is to be further noted here that, the respondents have established their claim as tenants in the suit property beyond reasonable doubt by adducing sufficient evidence in that behalf. After perusing the entire record

made available, this Court is of the considered view that, the all the Revenue Authorities below have not committed any error in appreciating the evidence on record.

7] After scrutinizing the impugned Orders and applying the ratio laid down by the Honourable Supreme Court in the aforestated decisions, this Court is of the view that, the Authorities below have not committed any error either in law or on facts while passing the impugned Orders.

The present petition being devoid of merits, is accordingly rejected.

(A.S.GADKARI, J.)