

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 3940 OF 1998**

Hari Gopala Kadam

Since deceased through his LRs.

- 1) Lata Anil Kadam,
Age 33 yrs. Occ. Household
No. 1 R/at Sonaichiwaide (Navadi),
Tal. Patan, District Satara.
 - 2) Asha Dilip Pawar,
Age 42 yrs., Occu. Household,
R/at Divate Wada, At Post & Tal. Karad,
District Satara.
 - 3) Nanda Shashikant Mathane,
Age, 33 yrs. Occu. Household,
R/at Shivneri Co-op. Hsg. Soc.
5Th Floor, Kasturba Gandhi Marg,
D.S. Marg, Worli, Mumbai-18
-Petitioners.

Vs.

- 1) Shri Jagannath Rama Kadam
 - 2) Shri Subhash Jagannath Kadam
 - 3) Shri Arvind Jagannath Kadam
- All resident of Sonaichiwaide,
Tal. Patan, District Satara.
-Respondents.

Mr. P.B. Shah for the Petitioner.

Mr. Yogesh Patil I/by Mr. Vijay Patil for the Respondents.

CORAM : A. S. GADKARI, J.

DATE : 24th JUNE, 2019.

ORAL JUDGMENT:-

By the present Petition under Article 227 of the Constitution of India, the Petitioners have challenged the concurrent findings recorded by the Revenue Authorities below.

2 Heard the learned counsel appearing for the Petitioners and the learned counsel for the Respondents. Perused the record.

3 The record indicates that, the Petitioner-Hari Kadam had filed an Application bearing Tenancy Case No. 1 of 1986 under Section 70(b) of the Bombay Tenancy And Agricultural Lands Act, 1948 (for short, "*the BTAL Act*") for declaration that, he is a tenant since before 1st April, 1957 in the suit land i.e. Revised Survey No. 164 Gat No. 1436 admeasuring 41-ares lying and situated at Village Navadi and Revised Survey No. 254/3, Gat No. 748 admeasuring 19-ares lying and situate at village Sonaichiwadi, Taluka Patan, District Satara before the Agricultural Land Tribunal, Patan (for short, "*ALT Patan*").

The ALT Patan, by its Judgment and Order dated 15th August, 1986, held and declared that, the Petitioner was a tenant having $\frac{1}{2}$ share in both the suit lands i.e. Survey No. 164 Gat No. 1436 and Survey No. 254/3 Gat No. 748.

4 The Respondents feeling aggrieved by the said Order passed by the ALT, Patan preferred a Tenancy Appeal No. 36 of 1986 before the Sub-Divisional Officer, Satara. The Appellate Authority, after considering the entire evidence available on record was pleased to allow the said Appeal by its Judgment and Order dated 28th December, 1987 and set aside the Order dated 15th August 1986 passed by the ALT, Patan.

Feeling aggrieved by the said decision of the Sub-Divisional Officer, Satara, the Petitioner preferred Revision under Section 76 of the BTAL Act, before the Maharashtra Revenue Tribunal, Pune (for short, "*the MRT*") bearing Revision No. 50 of 1988. The MRT, Pune has also turned down the Revision preferred by the Petitioner.

5 The scope of jurisdiction of the Revenue Tribunal under Section 76 of the BTAL Act, is now well settled. 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.

6 As noted earlier, there is concurrent findings recorded by both the Revenue Authorities below. 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 aforestated 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*.

7 Perusal of record would indicate that, the Sub-Divisional Officer, Satara i.e. the Appellate Authority has minutely scrutinized the entire evidence available on record and has recorded in its finding that, the Petitioner was and is not a tenant in the suit property. The MRT has affirmed the said findings in its entirety.

 In view of the above and the ratio laid down in the afore-stated decisions of the Supreme Court and after perusing the entire material available on record, this Court is of the considered view that, both the Authorities below have not committed any error either in law or on facts, while passing the impugned Orders. The Petition is devoid of merits and is accordingly dismissed.

(A.S. GADKARI, J.)