

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

WRIT PETITION NO. 3074 OF 2016

Pundlik Shamrao Raut	]	
Age : Adult, Occu. Agriculturist,	]	
R/o. 'A' Ward, Shivaji Peth,	]	
Kolhapur	]	Petitioner

V/s.

Ravindra Balwantrao Salokhe	]	
Age : Adult,	]	
R/o. House No.4, 'A' Ward,	]	
Shivaji Peth, Kolhapur	]	Respondent

Mr.Surel S. Shah for Petitioner.
Mr.S.S. Patwardhan i/b. Mr.Chetan Patil for Respondent.

CORAM : A.S. GADKARI, J.

DATE : 9th July 2019.

P.C. :

1] By the present petition under Article 227 of the Constitution of India, the petitioner has taken exception to the concurrent findings recorded by all the Revenue Authorities below.

2] Heard Mr.Shah, the learned counsel for the petitioner and Mr.Patwardhan, the learned counsel for the respondent. Perused the record.

3] The record indicates that, the respondent had filed an application under Section 70(b) of *the Maharashtra Tenancy and Agricultural Lands Act, 1948* (for short, “M.T.A.L. Act”) for declaration that, the petitioner was no more tenant of the respondent and his name be deleted from the revenue records, before the Additional Tahasildar and Agricultural Lands Tribunal Karveer, District Kolhapur (for short “A.L.T.”). The same was registered as TNC-Case No. ALT/287/1989. The A.L.T. Karveer after recording evidence of the witnesses and after hearing the parties to the said application was pleased to allow the application and held that, the petitioner ceased to be a tenant in the suit property. The A.L.T. has observed that the suit land falls under the Kolhapur City Agglomeration area as contemplated under *the Urban Land [Ceiling and Regulation] Act, 1976* (for short, “U.L.C. Act”) and therefore, ceases the status of an agricultural land.

4] The Appeal No. 47 of 1991 preferred by the petitioner under Section 74 of the M.T.A.L. Act before the Sub Divisional Officer, Karveer

Division, Kolhapur, has been turned down by the said authority by its Judgment and Order dated 6th August 1992.

The Revision Application bearing No. MRT/KP/141/1992 preferred by the petitioner under Section 76 of the M.T.A.L. Act has also met with the fate of rejection by the learned Member of the Maharashtra Revenue Tribunal, Pune, by its Judgment and Order dated 30th November 2015.

5] The record clearly indicates that, it is an admitted fact on record that, the petitioner had filed a return under Section 6 of the U.L.C. Act admitting the fact that, the suit land falls within the purview of provisions of U.L.C. Act and ceases to have the status of agricultural land. This admitted fact on record is weighed in the minds of all the Revenue Authorities below, which has resulted into the application of the respondent being allowed by the authorities. The record discloses that, in the master plan the suit lands were shown under residential zone and the petitioner himself admitted it as a vacant land in the Kolhapur City Agglomeration area. The petitioner had filed a return under Section 6 of the U.L.C. Act in that behalf with the Competent Authority, declared it as a surplus land for the purpose of making it

available for acquisition and disposal in accordance with the U.L.C. Act, 1976. The petitioner subsequently filed a scheme under Section 20 of the U.L.C. Act for residential purpose. Thus by the intent of the petitioner it is clear that, the land has ceased to be agricultural land.

6] 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.

7] The Constitution Bench of the Supreme Court in the case of *Syed Yakoob Vs. K.S. Radhakrishnan & Ors.*, reported in AIR 1964 SC 477, while enumerating the nature and limits of the jurisdiction of the High Court in issuing a writ of certiorari has held that, the jurisdiction of the High Court to issue a writ of certiorari is a supervisory jurisdiction and

the Court exercising it is not entitled to act as an Appellate Court. This limitation necessarily means that the findings of fact reached by the inferior court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. That, an error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be.

In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari.

A finding of fact recorded by the Tribunal cannot, however, be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding.

8] 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*.

9] After perusing the entire material available on record, this Court is of the considered view that, all the authorities below have not committed any irregularity or illegality, least to say any perversity while passing the impugned Orders. The record clearly indicates that the orders passed by the lower Authorities are well within the parameters of settled principles of law.

Petition being devoid of merits and is, accordingly, rejected.

[A.S. GADKARI, J.]