

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 2255 OF 2018**

Yeshwant Bajarya Pimple

(Since deceased) Through LRs. & Ors.

.....Petitioners.

Vs.

Jairam Kalya Sankhe & Ors.

.....Respondents.

Mr. A.G. Kundekar for the Petitioners.

Mr. Sandesh Patil I/by Anusha Amin for Respondent Nos. 1A to 4E.

CORAM : A. S. GADKARI, J.

DATE : 12th JUNE, 2019.

P.C.:-

The Petitioners have taken exception to the Judgment and Order dated 22nd February, 2017 passed by the learned Member, Maharashtra Revenue Tribunal, Mumbai in Review/TNC/THN/ 01/2014, thereby disposing of the said Review Petition in view of the Regulation 37 of the Maharashtra Revenue Tribunal Regulations, 2013.

2 Heard the learned counsel for the Petitioners and the learned counsel for the Respondents. Perused the record made available before this Court.

3 The record indicates that, the Petitioners had preferred

Tenancy Revision Application No. 241/B/2011 before the Maharashtra Revenue Tribunal at Mumbai being aggrieved by the Order passed by the Sub-Divisional Officer, Dahanu Division, Dahanu, District Thane, dated 10th June, 2011. By the said Order, the Sub-Divisional Officer, Dahanu had confirmed the Order dated 12th November, 2009 passed in Tenancy Suit No. 70-B/S.R-4/2009, holding that the Petitioners were not tenants of the Respondents.

4 As noted earlier, the Maharashtra Revenue Tribunal, Mumbai, while exercising its jurisdiction under Section 76 of the Maharashtra Tenancy and Agricultural Lands Act, 1948 confirmed the Orders passed by both the Authorities below.

5 The said Judgment and Order was passed by the learned Member (Shri P.B. Sawant), then presiding over as a Member of the Maharashtra Revenue Tribunal. The Petitioners subsequently preferred further Review Petition before the Maharashtra Revenue Tribunal and also filed an Application for condonation of delay therein. The delay of 95 days in preferring the Review Petition was condoned by the learned Member of the Maharashtra Revenue Tribunal, Mumbai by its Order dated 29th January, 2015. In due course of time, the concerned learned Member (Shri. P.B. Sawant) retired from the services on superannuation and thereafter, the Review No. 1 of 2014 came up for hearing before

another learned Member (Shri. S.B. Patil) of the Tribunal. On 22nd February, 2017, the learned Member was pleased to dispose of the said Review Application in view of Regulation No. 37 of the Maharashtra Revenue Tribunal Regulations, 2013.

The Regulation No. 37 of the Maharashtra Revenue Tribunal Regulations, 2013 reads as under-

“37. Hearing of review applications.- Where a single member or the members of a bench or one of such members, who decided the case or made the order, a review of which is applied for, continues or continue to be a member or members of the Tribunal at the time when the application for such review is to be heard, such member or a bench consisting of such member or members, as the case may be, shall hear the application and no other member or bench shall hear the same.”

6 A bare perusal of the said Regulation No. 37 coupled with the observations made by the learned Member of the Tribunal in its impugned Order dated 22nd February 2017 would indicate that, there is no error committed by the learned Member of the Tribunal while passing the impugned Order. This Court is of the considered view that, the impugned Order does not suffer from any error or irregularity, either in law or on facts.

7 Petition is accordingly dismissed.

(A.S. GADKARI, J.)