

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

WRIT PETITION NO.1796 OF 1999

Bapu Laxman Gurav
(Deceased) by his legal heirs
S.B.Gurav and ors.

... Petitioners

V/s.

Jaysing Baburao Jadhav

... Respondent

None for the Petitioners.

None for the Respondent.

CORAM : UJJAL BHUYAN, J.

DATE : NOVEMBER 28, 2019.

P.C.:-

1. None appears for the parties on call.

2. It is seen that notice in this case was issued on 6th April, 1999 and ad-interim relief was granted in the terms of prayer clause (c). Thereafter, the writ petition was admitted for hearing on 19th July, 1999 with continuation of the interim order.

3. Though the case was admitted for hearing in 1999, no affidavit has been filed by the respondent.

4. By way of this writ petition, petitioners have assailed the legality and correctness of the order dated 15th October, 1997 passed by the learned Designated Member, Maharashtra Revenue Tribunal, Pune, Camp at Kolhapur allowing the revision application filed by Jaysing Baburao Jadhav, respondent herein.

5. Petitioners are the legal heirs of Babu Laxman Gurav.

6. Case of the petitioners is that they since the days of their predecessor-in-interest are tenants of the suit land of which respondent is the landlord. Suit land is covered by Survey No.53/1 situated at village Kasarwada, Taluka Radhanagri in the district of Kolhapur. Petitioners have stated that they are in possession of the suit land as tenants prior to 1956.

7. Tahsildar and Agricultural Lands Tribunal, Radhanagri in Case No.32(f) passed an order dated 28th August, 1989 to the effect that petitioners had failed to exercise their rights under Section 32(f)1(a) of the Maharashtra Tenancy and Agricultural Lands Act, 1948. Therefore, Tahsildar and Agricultural Lands Tribunal declared the purchase of the petitioners ineffective.

8. Aggrieved by the said order dated 28th August, 1989, petitioners filed Tenancy Appeal No.3 of 1990 before the Assistant Commissioner, Shahuwadi Division, Kolhapur. After hearing the matter, Assistant Collector allowed the appeal vide order dated 18th January, 1991 by setting aside the order dated 28th August, 1989 and remanding the matter back to the Tahsildar and Agricultural Lands Tribunal for fresh inquiry. More particularly, it was directed that Tahsildar and Agricultural Lands Tribunal should ascertain whether petitioners had sent notice to the respondent as required under Section 32(f)1(a).

9. This order dated 18th January, 1991 was assailed by the respondent in revision before the Maharashtra Revenue Tribunal, Pune (Tribunal). By the impugned order dated 15th October, 1997, Tribunal allowed the revision application by setting aside the order dated 18th January, 1991, thereby confirming the order dated 28th August, 1989.

10. When the Appellate Authority had remanded the matter for fresh inquiry vis-a-vis issue of intimation by the tenants and its receipt by the landlord, there was no reason for interference by the Tribunal, that too, in revisional jurisdiction.

11. In such circumstances, court is of the view that impugned order dated 15th October, 1997 is not at all justified and cannot be sustained. The same is hereby set aside and quashed.

12. Consequently, order of Appellate Authority dated 18th January, 1991 is restored and as per the said order

Tahsildar and Agricultural Lands Tribunal shall inquire afresh the question of intimation sent by the tenants and its receipt by the landlord.

13. Writ petition is accordingly allowed but without any order as to cost.

(UJJAL BHUYAN, J.)

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