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

WRIT PETITIOIN NO.11715 OF 2018

Waman Tatya Shinde through LRs

..Petitioner.

Vs

Vasant Khandu Garge through LRs

..Respondents

Mr. Prabhanjan Gujar for the Petitioner.

Mr. S.D. Rayrikar, AGP for the State.

CORAM : A.S.GADKARI, J.

DATE : 17th June 2019.

P.C.:

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

2] Heard the learned counsel for the petitioners at length and the learned AGP. Perused the record annexed to the petition.

3] The petitioners claim that, their predecessor was tenant in old survey No.14, New Survey Nos.386 and 387 (Gat No.212) admeasuring 5 Hectres and 20 Ares lying and situate at Village Humgaon, Taluka Jawali, Distrcit Satara.

The record discloses that, after being unsuccessful in

establishing their claim as tenants in the suit property before the Revenue Authorities in earlier round of litigation, the predecessor of the petitioners filed a Civil Suit No.50 of 1992 in the Court of Civil Judge, Junior Division, Medha, Disstrict Satara for perpetual injunction. The learned Civil Judge, Junior Division, Medha, referred the issue pertaining to the claim of the petitioners as tenants to the Agricultural Lands Tribunal (ALT), Jawli, (Medha), District Satara, as to whether the predecessor of the petitioners was a tenant and cultivating suit land prior to 1.4.1957. The Agricultural Lands Tribunal registered the said reference as Court Reference No.103 of 2003 and treated it as an application under Section 70(b) of the Bombay Tenancy And Agricultural Lands Act, 1948 (for short "B.T.A.L. Act).

The petitioners and the respondents were heard in the matter and after taking into consideration the evidence on record, the A.L.T., Jawali (Medha), was pleased to hold that, the petitioners were not tenants in the suit land and rejected the said application.

4] The father of the petitioners namely late Waman T. Shinde thereafter preferred an appeal under section 74 of B.A.T.L Act before the Sub-Divisional Officer, Satara bearing No.Tenancy/A/3/2004. The Sub-Divisional Officer, Satara after reapprciaing the evidence available on

record, dismissed the said appeal by its Judgment and Order dated 28th February 2007. The Revision preferred by the petitioner under section 76 of B.T.A.L. Act before the Maharashtra Revenue Tribunal, Pune Bench, has met with a fate of dismissal by its Judgment and Order dated 4th October 2017 passed by the learned Member of Revenue Tribunal at Pune.

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

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.

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] The record clearly indicates that, the petitioners have failed to prove their claim as tenants in suit lands. After perusing the entire record made available, this Court is of the considered view that, the Agricultural Lands Tribunal has not committed any error in appreciating the evidence on record. 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.)