

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

WRIT PETITION NO.4444 OF 2019

Umaji Dnyanu Langhi and ors. ... Petitioners

V/s.

Anant Sakharam Ubhe and ors. ... Respondents

Mr.Samir M. Suryawanshi, Advocate for the Petitioners.

Mr.U.B.Nighot, Advocate for the Respondents.

CORAM : UJJAL BHUYAN, J.

DATE : DECEMBER 13, 2019.

P.C.:-

1. Heard Mr.Samir M. Suryawanshi, learned counsel for the petitioners; and Mr.U.B. Nighot, learned counsel for all the respondents.

2. This petition has been filed under Articles 226/227 of the Constitution of India challenging the legality and correctness of order dated 25th October, 2017 passed by the Learned Member, Maharashtra Revenue Tribunal, Pune dismissing the revision application filed by the petitioners.

3. A perusal of the order dated 25th October, 2017 would go to show that there was no representation on behalf of the petitioners on that day. Learned member had taken note of the fact that petitioners were absent on five occasions out of last ten occasions. Taking the view that petitioners were perhaps not interested in pursuing the case, the revision application was dismissed for default.

4. Aggrieved, the present writ petition has been filed.

5. Learned counsel for the petitioners submits that petitioner No.1 was taking steps in the revision application filed under Section 76 of the Maharashtra Tenancy and Agricultural Lands Act, 1948 on behalf of all the petitioners. Health of petitioner No.1 was not well. Therefore, petitioner No.1 could not attend the proceeding before the Maharashtra Revenue Tribunal (Tribunal).

6. He submits that petitioners may be given an opportunity to contest the revision application on merit.

7. Learned counsel for the respondents submits that averments made by the petitioners in the writ petition to

explain the default is wholly inadequate. That apart, after the order dated 25th January, 2017 was passed, the writ petition came to be filed very belatedly on 19th December, 2018 i.e., after almost two years for which there is no explanation. On merit also, he submits that both the authorities below had declared the respondents as the tenants. Against such concurrent findings on facts, there is hardly any scope for interference in revision.

8. On a query by the court, learned counsel for the petitioners has referred to the averments made in paragraph No.20 of the writ petition to contend that petitioners had no knowledge about the order dated 25th October, 2017 and that they came to know about it only when respondents had filed application before the Tahsildar on 21st May, 2018 under Section 32G of the said Act.

9. Be that as it may, despite inadequate pleading, court is of the view that it would be in the interest of justice if the related revision application is heard and

decided on merit. Consequently, order dated 25th October, 2017 is set aside.

10. Matter is remanded back to the Tribunal for hearing and decision of the related revision application in accordance with law. However, if there is further default on the part of the petitioners, Tribunal may pass necessary order.

11. Since the contesting parties are before the court, let them appear before the Tribunal alongwith an authenticated copy of this order on 23rd December, 2019 at 11.00 a.m..

10. Writ petition is disposed of.

(UJJAL BHUYAN, J.)

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