

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4404/2019

Gunwant Vithobaji Tetu and others

..Vs..

Shri Maroti Maharaj Sansthan, Udkhed and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Smt. S.W. Deshpande, Advocate for the petitioners.
Shri G.R. Sadar, Advocate for respondent No.1.

CORAM : Z.A. HAQ, J.

DATED : 8.7.2019.

Heard.

The respondent No.1 - Public Trust got the exemption certificate as per Section 129(b) of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (for short "the Act of 1958"). After death of original lessee - Gunwant Tetu, the respondent No.1 - public trust initiated proceedings under Section 120(c) of the Act of 1958 for summary eviction of the present petitioners. The present petitioners justified their possession over the suit field claiming that being legal representatives of original lessee - Gunwant Tetu they have inherited tenancy rights and cannot be said to be in unauthorized occupation of the suit field. After considering the rival contentions, learned Sub-Divisional Officer, relying on the judgment given by the Hon'ble Supreme Court in the case of *Shriram Mandir Sansthan @ Shri Ram Sansthan Pusda V/s. Vatsalabai and others* reported in **1999(1) Mh.L.J. 321** allowed the application

filed by the respondent No.1 - public trust and directed eviction of the petitioners.

After considering the material on record and going through the impugned order, I find that the conclusions of the learned Sub-Divisional Officer are in consonance with the law laid down in the judgment referred above in which it is held that if exemption certificate as per Section 129(b) of the Act of 1958 is granted, the tenancy rights are not inheritable and the legal heirs of original tenant cannot stake claim over the agricultural land in question.

Hence, I see no reason to interfere with the impugned order. Writ petition is **dismissed** with costs quantified at Rs.10,000/- to be paid by the petitioners to respondent No.1 - public trust. At this stage, learned Advocate for the petitioners states that the costs may not be imposed on the petitioners and the petitioners undertake to hand over peaceful vacant possession to the respondent No.1 - public trust within 15 days. If the petitioners hand over vacant possession of the suit land to respondent No.1 - public trust peacefully within 15 days, directions to the petitioners to pay costs shall stand deleted, however, if the petitioners fail to hand over vacant possession of the suit field to respondent No.1 - public trust till 23rd July 2019, the petitioners will be liable to pay the amount of costs as per this order.

JUDGE