

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.3886/2018

(BALKRUSHNA DAYARAM MANKAR & OTHERS **VERSUS** ADINATH SWAMI JAIN DIGAMBAR
KASHTASANGAI MANDIR SANSTHA & OTHERS)

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

Court's or Judge's orders

Mrs. Priya S. Zoting, counsel for petitioners.
Shri A. Shelat, counsel for R-1.

CORAM : A.S. CHANDURKAR, J.

DATE : AUGUST 13, 2019.

An order passed by the Maharashtra Revenue Tribunal allowing the revision application preferred by the respondent no.1- Trust and directing summary eviction of the petitioners is under challenge in the present writ petition.

It is the case of the respondent no.1 that it has been issued an exemption certificate under Section 129(B) of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (for short, 'the said Act') on 28.01.1961. The lands owned by the Trust were in possession of Dayaram Mankar and Damodar Mankar. The Trust had initially sought permission to sell the tenanted land to both these persons by seeking permission under Section 36 of the Maharashtra Public Trusts Act, 1950. Such permission was granted on 13.01.2004 but thereafter no further steps were taken to have the transaction completed. In the meanwhile, Dayaram Mankar expired and hence the Trust initiated proceedings under Section 120 of the said Act on 08.02.2016 for summary eviction of the legal heirs of Dayaram Mankar as well as Damodar Mankar. These proceedings were opposed by the

petitioners herein as well as by legal heirs of Damodar Mankar. The Sub-Divisional Officer rejected the application in question in view of the fact that permission to sell the land had been granted to the Trust. In the revision application filed by the Trust, it was held that it was only Dayaram was the protected tenant. There was no evidence on record to indicate that the amount of Rupees Ten Thousand had been paid for purchasing the said land. It was further observed that there were no documents to indicate the status of Damodar as a tenant. On these counts, the revision application was allowed. Being aggrieved the legal heirs of Dayaram have challenged the aforesaid order.

Mrs. Priya Zoting, learned counsel for the petitioners submitted that in the proceedings filed by the Trust seeking permission to alienate the lands in question, it was admitted by the trustees that both Dayaram and Damodar were the tenants. Having accepted the status of Damodar as a tenant it was not now permissible to take another stand. She further submitted that the amount of Rupees Ten Thousand was paid by Dayaram to the Trust but despite that the sale-deed was not executed in their favour. It was thus submitted that the Maharashtra Revenue Tribunal without considering these aspects was not justified in allowing the revision application.

Shri A. Shelat, learned counsel for the respondent no.1 supported the impugned order and submitted that the status of Damodar as a tenant was disputed. Though permission was sought to alienate the suit land, no steps had been taken to have the sale-deed executed. After the death of Dayaram his legal heirs became trespassers. He submitted that no document was placed on record to substantiate the stand that Damodar was a tenant of the lands in

question. Moreover, possession was already received by the trustees pursuant to the impugned order. Hence, there was no reason to interfere with the impugned order.

On hearing the learned counsel for the parties, it is seen that though the Trust had sought permission to alienate the suit property, both Dayaram as well as Damodar did not take steps to have the sale-deed executed. After the death of Dayaram eviction of the legal heirs was sought under Section 120 of the said Act. The Trust did not accept Damodar as a tenant and a finding has been recorded that there were no documents placed on record by the petitioners to indicate the tenancy rights of Damodar. He also did not appear for being examined before the Sub-Divisional Officer.

It is thus seen that the Maharashtra Revenue Tribunal has taken into consideration all relevant aspects. After the death of Dayaram, the legal heirs had no right to succeed to the tenancy. Since no document was placed on record to justify the status of Damodar, the eviction as directed cannot be faulted. Moreover, the impugned order now stands duly executed. In absence of any jurisdictional error, there is no ground to interfere in writ jurisdiction.

The Writ Petition is therefore dismissed. No costs.

JUDGE