IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 6362/2018
Wamanrao Govindrao Hambarde and others
Vs.
Shri Ram Mandir Sansthan, Takherkheda Sambhu, thru Ramrao Punaji Tayade & ors.

Office notes Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Shri S.R.Deshpande,Advocate for petitioners
Shri P.A.Kadu, Advocate for respondent nos. 1 to 12, and 14 to 21.

CORAM : A.S.CHANDURKAR, J.
DATED : July 19, 2019.

The challenge raised in the present writ petition filed under Article 227 of the Constitution of India is to the order dated 20.08.2018 passed by Maharashtra Revenue Tribunal rejecting the revision application filed by the petitioners seeking to challenge the exemption certificate that was issued to the respondent-Trust under section 129(b) of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (for short, ‘the said Act’).

It is the case of the respondent-Trust that it was issued an exemption certificate by the Collector under the provisions of Section 129(b) of the said Act on 17.09.1959. On the strength of that certificate the Trust sought to evict the petitioners under the provisions of Section 120 of the said Act. The application in question was filed on 22.07.2002. Those proceedings were opposed by the petitioners by filing a reply and the Sub-Divisional Officer on 05.12.2012 held that the petitioners were in unauthorized occupation of field Survey No.176 admeasuring 5 H 77 R. Hence summary eviction of the petitioners was directed. When the proceedings seeking to challenge that order were pending before the Maharashtra Revenue Tribunal, the petitioners filed an application seeking revocation of the exemption certificate that was granted under Section 129(b) of the said Act. The Trust objected to the said proceedings and by the order dated 27.05.2014, the Sub-Divisional Officer held that no ground was made out by the petitioners to revoke the exemption certificate as granted on 17.09.1959. Hence the said application came to be rejected. Being aggrieved the petitioners challenge that order by filing review application before the Maharashtra Revenue Tribunal. By the order dated 20.08.2018, the learned Member of the Maharashtra Revenue Tribunal rejected the revision application on the ground that the said proceedings were filed after period of almost 53 years. Though the petitioners were aware of the certificate in question in the year 2002, they sought to challenge the same after about 11 years. Being aggrieved, the said orders are challenged in present writ petition.

Shri S.R.Deshpande, learned counsel for the petitioners submitted that the petitioners were not noticed when the certificate of exemption came to be issued to the Trust. He submitted that the Public Trust was also not duly registered on the date when said certificate came to be issued. Further the purpose for which the such exemption was granted to the Trust had ceased to exist and therefore that certificate was liable to be revoked. Referring to the statements of the trustees as recorded coupled with the fact that the said exemption certificate was granted without hearing the petitioners, it was submitted that the same was liable to be revoked.

On the other hand, Shri P.A. Kadu, learned counsel for the respondent-Trust supported the impugned orders. He submitted that the certificate dated 17.09.1959 was granted by the Collector and hence the proceedings for revocation before the Sub-Divisional Officer were misconceived. It was rightly observed by the Maharashtra Revenue Tribunal that despite knowledge of the said certificate, they did not raise any challenge immediately. Only after the Maharashtra Revenue Tribunal was seized of the eviction proceedings that the present proceedings came to be filed. Placing reliance on the decision in ***Vithal Rukhmai Sansthan, Amravati Vs. Chakkilal Bhagwandas and others, 1978 Mh L.J. 241***, it was submitted that after issuance of said certificate, it was not necessary to enquire as to whether the conditions contemplated by Section 129(b) of the said Act existing or not. Hence there was no reason to interfere with the impugned order.

I have heard the learned counsel for the parties and I have perused the records of case. It is seen that the exemption certificate dated 17.09.1959 has been granted by the Collector. On the strength of that certificate the respondent–Trust sought summary eviction of the petitioners by filing an application in the year 2002. The said application was accordingly allowed by the order dated 05.12.2012 and it is only thereafter that the present proceedings came to be filed. The learned Member has rightly observed that the proceedings for revocation filed on 25.09.2013 were belated and by way of an after thought. Even after getting knowledge of the said certificate in the year 2002 when the summary eviction proceedings were filed, the challenge was sought to be raised after 11 years. Though according to the petitioners the certificate in question was obtained by practicing fraud, there is no material whatsoever brought on record by the petitioners to substantiate that contention. As held in *Vithal Rukhmai Sansthan* (supra) after issuance of such certificate, it was not open for the tenant or Tenancy Authorities to embark on an enquiry as to whether the requisite conditions contemplated by Section 129(b) of the said Act were existing or not.

It is thus found that after the orders of summary eviction were passed by the Sub-Divisional Officer on 05.12.2012, the petitioners have sought to challenge the exemption certificate. Besides the fact that the said challenge was highly belated, it is found that there are no legal grounds to revoke the same. I therefore do not find any reason to interfere with the impugned order. The writ petition is therefore dismissed with no orders as to costs.

JUDGE

Andurkar.