

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

WRIT PETITION NO.3448/2018

SANJAY UTTAM SURJUSE AND ANOTHER
Vs.
MAROTI MAHARAJ DEOSTHAN AND OTHERS.

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

Court's or Judge's Orders.

Shri C.A.Babrekar, Advocate for petitioners.
Shri S.Alaspurkar, Advocate for respondent nos. 1(b) and 1(C).
Shri S.Bissa, Assistant Government Pleader for respondent no. 2.

CORAM : A.S.CHANDURKAR, J.
DATED : July 02, 2019

In view of notice for final disposal issued earlier, learned counsel for the parties have been heard at length.

The petitioners claim to be tenants of land bearing Survey No.21/2 which is owned by the respondent no.1- Trust. It is the case of the Trust that exemption certificate under the provisions of Section 129 (b) of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (for short, 'the said Act') has been issued to it. After the death of the original tenant namely Daulat Surjuse, the Trust initiated proceedings under Section 120 of the said Act. The said application was allowed by the Sub Divisional Officer, Chandur-Railway and that order has been maintained by the Maharashtra Revenue Tribunal.

Shri C.A.Babrekar, learned counsel for the petitioners submitted that the Trust was not entitled to take benefit of the exemption certificate as the lands of the Trust were not being used for the purpose on the basis of which it was granted exemption certificate. In that regard, he has relied upon the certificate dated 03.02.2016 to indicate the possession

of the petitioners and the fact that an amount of Rs.four thousand five hundred which was to be paid to the Trust was handed over to the petitioners. He therefore submits that the petitioners are not liable to be evicted summarily.

Shri S.Alaspurkar, learned counsel for the respondent no.1 submits that the exemption certificate dated 08.06.2012 has attained finality and therefore the Trust has rightly proceeded by invoking the provisions of Section 120 of the said Act. He further submits that in terms of the impugned order the Trust has already received possession on 29.06.2018. Hence no interference is called for.

Shri S.Bissa, learned Assistant Government Pleader appears for the respondent nos. 2 and 3.

On hearing learned counsel for the parties, it is seen that the exemption certificate granted to the Trust on 08.06.2012 was sought to be challenged before the Maharashtra Revenue Tribunal. However delay in raising that challenge was not condoned and hence the said certificate has now attained finality. It is also not in dispute that the petitioners are the legal heirs of the original tenant. The tenancy not being heritable when the exemption certificate is issued, the order passed by the Sub Divisional Officer directing summary eviction does not call for any interference.

In that view of the matter, the writ petition stands dismissed.
No costs.

JUDGE

Andurkar.