

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH AT NAGPUR****CONTEMPT PETITION NO.312 OF 2019****IN****WRIT PETITION NO.5731 OF 2015 (D)**

Bapuji Jaganna Bhoyar (Dead) through his LR's 1-a) Smt. Radhabai Bapuji Bhoyar, and others.
Vs.

Y. V. Kumbhejkar, Sub Divisional Officer, Rajura Dist. Chandrapur and others.

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

Court's or Judge's orders

Shri M P. Kariya, Advocate for petitioners.

Shri V. P. Maldhure, AGP for respondent no.2.

CORAM : AVINASH G. GHAROTE, J.

DATE : FEBRUARY 05, 2020.

Heard Shri Kariya, learned counsel for the petitioners and Shri Maldhure, learned Assistant Government Pleader for respondent no.2.

2. The original petitioner Bapuji Bhoyar was the owner of land bearing Gat No.45 situated at Mouza Marda, Tah. Rajura, Dist. Chandrapur. Gajanan Govinda Wankar and Sukhdeo Govinda Wankar were the tenants of the above agricultural land. The respondents no.4 to 9 are the legal heirs of Gajanan Wankar and the respondents no.10 to 12 are legal heirs of Sukhdeo Wankar. The tenants filed an application for determination of purchase price which came to be rejected on 23.06.1989, appeal against which to the Sub Divisional Officer, came to be dismissed on 30.10.1992, which was further challenged before the Maharashtra Revenue Tribunal, which by an order dated 11.08.1997, remanded the

same to the Tahsildar for fresh inquiry.

3. The Tahsildar on remand, by an order dated 26.08.2002 held that in light of Section 38 (C-7), of the Hyderabad Tenancy and Agricultural Lands Act, 1950, as the holding with the land owner was less than one family holding, it was impermissible for the tenant to purchase the same. The proceedings were therefore filed.

4. Thereafter, the land owner, on 20.07.2001 gave a notice to the tenants demanding the arrears of rent, which was replied on 05.09.2001 disputing the quantum. This led to initiation of proceedings before the Tahsildar, in which an order was passed on 07.12.2007, where under the Tahsildar ordered that the entire arrears plus costs be paid within 90 days to the land owner, failing which the tenancy would be deemed to come to an end and the possession in such a case was directed to be transferred back to the land owner.

5. This order dated 07.12.2007 was challenged in appeal before the Sub Divisional Officer which came to be dismissed on 26.04.2010. On appeal to the Maharashtra Revenue Tribunal, the order of the Tahsildar dated 07.12.2007 directing payment of arrears of rent, was maintained and the other directions given, namely that on failure to pay the arrears of rent, the tenancy shall be deemed to be terminated and possession would be required to be handed over to the land owner was set aside. The

Maharashtra Revenue Tribunal further directed the Tahsildar to determine the purchase price.

6. In Writ Petition No.5731 of 2015 against the same, this Court by an order dated 12.04.2018 set aside the direction as given by the Maharashtra Revenue Tribunal to the Tahsildar for determining the purchase price, as according to it, in light of the earlier order dated 26.08.2002, the question therein stood concluded between the parties. This court maintained the order of the Maharashtra Revenue Tribunal, to the extent it confirmed the order passed by the Tahsildar dated 07.12.2007.

7. It is the contention of Mr. Kariya, learned counsel for the petitioner that because of the order dated 12.04.2018 as passed by this Court in Writ Petition No.5731 of 2015, the directions as issued by the Tahsildar in its order dated 07.12.2007 of deemed termination of the tenancy and delivery of possession to the owner in case of non payment of arrears of rent, stood revived. He therefore submits that, the subsequent order dated 28.05.2018 as passed by the Tahsildar determining the arrears and consequent non payment by the tenants has resulted in the land owner becoming entitled to possession of the land as the tenancy of the tenants is deemed to have been terminated, in light of the order of the Tahsildar dated 07.12.2007.

8. I am unable to agree with the submission of Shri Kariya, learned counsel for the petitioner. Perusal of the judgment dated 12.04.2018 would demonstrate that, that portion of the order of the Tahsildar dated 07.12.2007, which is referred to above and which was set aside by the Maharashtra Revenue Tribunal, has not been revived by this Court in its judgment dated 12.04.2018. In fact, the perusal of para 7 of the judgment dated 12.04.2018, clearly indicates that this Court found that the tenants were entitled to continue with their status as tenants.

9. Shri Kariya, learned counsel for the petitioners in such a situation has requested for an adjournment, in order to enable to seek clarification from the Court which passed the judgment dated 12.04.2018. The issue of seeking clarification is a matter which is independently available to the petitioners. In case any such clarification is issued by this Court it would be open for the petitioner to initiate appropriate proceedings in that regard, at that point of time. As of date, I do not see any order of the Court being violated as is sought to be contended. In that light of the matter, there is no substance in the present contempt petition. The same stands dismissed. No order as to costs.

JUDGE