

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4591 2020

Shri. Narayan Rama Gawali,
since deceased through Legal Heirs.

- 1) Aavadu Narayan Gawali,
Age 74 years, Occ. Agriculture.
- 2) Shivaji Narayan Gawali,
Age 58 years, Occ. Agriculture.
- 3) Rakhman Narayan Gawali,
Age 55 years, Occ. Agriculture.
- 4) Ramling Narayan Gawali,
Age 48 years, Occ. Agriculture.

All r/o. Galwada, Soygaon,
Tq. Soygaon, Dist. Aurangabad.

- 5) Kisnabai Vitthal Gawali,
Age 65 years, Occ. Household,
R/o. At/post Naygaon, Tq. Soygaon,
District Aurangabad.
- 6) Deokabai Siddappa Gawali,
Age 50 years, Occ. Household,
R/o. At/post Nyayadongri,
Tal. Nandgaon, Dist. Nashik.

... **Petitioners.**

VERSUS.

- 1) Ramchandra Gangadhar Somani,
Age 72 years, Occ. Agriculture.
- 2) Sumanbai Ramchandra Somani,
Age 69 years, Occ. Housewife.
Both r/o. Near Ram Mandir,
Soygaon, Tq. Soygaon, Dist.
Aurangabad.
- 3) Rajendra Ambadas Payghan,
Age 74 years, Occ. Household.

- 4) Kamalbai Ambadas Payghan,
Age 74 years, Occ. Household.
- 5) Dnyanendra Ambadas Payghan,
Age 44 years, Occ. Agriculture.

All R/o. Near Tahsil Office,
Soygaon Tq. Soygaon, Dist.
Aurangabad.

- 6) Ashok Krushna Kale, Age 59
years, Occ. Agriculture.
- 7) Vaishali Anil Kale,
Age 52 years, Occ. Housewife.
- 8) Sandip Anil Kale,
Age 37 years, Occ. Agriculture.

All r/o. Old Bajarpatra, Near
Police Station Soygaon, Tq.
Soygaon, Dist. Aurangabad.

- 9) Savita Ravi Thakare,
Age 34 years, Occ. Housewife,
R/o. At post Malipura, Opp. Manik
Talkies, Akola, Tq. Dist. Akola.
- 10) Manisha Suresh Pungle,
Age 30 years, Occ. Housewife,
R/o. N-4, Sector-G, Plot No. 50,
CIDCO, Aurangabad, Tq. & Dist.
Aurangabad.

... Respondents.

...
Advocate for the Petitioner : Mr. S.P. Brahme.

CORAM : MANGESH S. PATIL, J.
DATE : 03.09.2021.

PER COURT :

Heard learned advocate Mr. Brahme for the petitioners and perused
the papers.

2. The petitioners are challenging the judgment and order passed by the Maharashtra Revenue Tribunal Aurangabad dismissing their revision preferred under Section 91 of the Hyderabad Tenancy and Agricultural Lands Act, 1950 (hereinafter 'the Act') and confirming the decision of the learned Tahsildar in an enquiry under Section 8 of the Act denying his claim of being a tenant in the land Survey No. 55/A (old) of village Golwada Tq. Soyagaon Dist. Auangabad which was thereafter confirmed by the learned Deputy Collector who dismissed their Appeal under Section 90 of the Act.

3. The learned advocate would submit that all the authorities under the Act have grossly erred in appreciating the facts and circumstances obtaining on the record. The land was originally owned by one Gayabai. Petitioner Narayan's brother Sitaram was her tenant in that land. He was in possession from the year 1952 to 1968 and even his name was mutated in the revenue record. Since Sitaram died issueless Narayan became tenant and was entitled to receive the benefit of purchasing the land. By practising fraud upon Narayan some of the respondents got executed sale-deeds of various portions of the land and even Gayabai sold a portion of the land. The petitioners filed a proceeding under Section 50 seeking a declaration of cancellation of the sale-deeds and for possession under Section 98 of the Act. The Authorities below grossly erred in appreciating the fact that name of Sitaram was appearing in the revenue record for a considerable time. It is pursuant to the right to purchase the land being a tenant, Gayabai had executed an agreement to sell it to him and ignoring all such happenings the Authorities have reached an illegal conclusion that Sitaram was not a tenant.

4. I have carefully considered the submission of the learned advocate and perused all the three orders of the revenue authorities under challenge in this Writ Petition.

5. Suffice for the purpose to bear in mind that this Court would be slow

in causing any interference in the consistent orders passed by the authorities below. Needless to state that the disputed questions of fact have been considered, dealt with and decided by the three authorities. They have consistently held that there was absolutely no record to justify the claim of the petitioners that Sitaram was a tenant of Gayabai in the land. They have specifically concluded on the basis of the revenue record that neither Khasara-Patrak, Pahani Patrak or statement under the Act concerning tenancies or declarations under the various provisions of the Act were available and it would clinchingly refute the claim of the petitioners that Sitaram was the tenant. They have also emphasized that in fact one Sudam Pachu was a protected tenant in possession of the land who had subsequently surrendered the tenancy by following the procedure prescribed under the Act.

6. Again, they have also noticed that the petitioners are laying claim on the basis of an agreement executed by Gayabai purportedly agreeing to sell the land to Sitaram for some consideration and it is pursuant to such agreement to sell that the possession was handed over. They have drawn a legitimate conclusion that if at all Sitaram was a tenant there was no reason why there could have been any agreement of sell of such nature under which he accepted the possession. There is absolutely no whisper in this agreement recognizing him to be a tenant in possession of the land. Even the revenue record was subsequently mutated and reflects that Sitaram was in possession of the land on the basis of this agreement to sell. In view of such state of affairs, the Authorities have consistently held about the petitioners having failed to establish tenancy. By no stretch of imagination the orders can be said to be perverse or arbitrary.

7. There is no merit in the Writ Petition. It is dismissed in limine.

(MANGESH S. PATIL, J.)

mkd/-