

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 WRIT PETITION NO.2341 OF 2021

RAMANLAL JAMNADAS GUJRATHI
VERSUS
PITAMBAR PUNJU PATIL AND OTHERS

Mr.Subodh P. Shah, Advocate for the petitioner.
Mr.D.P. Palodkar, Advocate for respondent Nos.1 & 8.

CORAM : N.J.JAMADAR, J.
DATE : 31.03.2021

ORAL ORDER :-

01. The petitioner-landholder assails the legality, propriety and correctness of the judgment and order passed by the learned President, Maharashtra Revenue Tribunal, Mumbai in Revision No.97/B/2008/JGN dated 24th April, 2019, whereby the revision preferred by the petitioner came to be dismissed and the orders of the Tahsildar, Erandol and the Sub-Divisional Officer, Erandol dismissing the claim of the petitioner/landholder for regaining possession of the agricultural land bearing Survey No.21, admeasuring 2 Hectare 14 R situated at Toli, Tq. Parola, Dist. Jalgaon [suit-land], were upheld.

02. The petitioner is the landholder of the suit land. Late Punju Sajan Patil, the predecessor in title of the respondents, was the original tenant thereof. As the tenants failed to deposit the rent since the year 1966-67, the petitioner issued notice on 11.06.1986 under section 25 of the Maharashtra Tenancy and Agricultural Lands Act, 1948 [Act, 1948] and demanded the due rent. The tenant failed to comply with the demand. Hence, the petitioner preferred tenancy Case No.5 of 1988 before the Agricultural Lands Tribunal [ALT], Parola, seeking eviction of the tenant for default in payment of rent and also sub-division of the suit land without prior permission.

03. The Tenancy Case No.5 of 1988 was dismissed by the ALT by the judgment and order dated 31st October, 1990 holding, inter alia, that the service of demand notice was not proved and there was no pleading in support of the ground of subletting. The Tenancy Appeal

No.3 of 1991 preferred thereagainst by the petitioner, came to be partly allowed and the matter was remanded back to ALT for fresh enquiry. Post remand, the ALT again rejected the claim by the judgment and order dated 29th April, 1999. The Tenancy Appeal No.5 of 2003 preferred by the petitioner was again partly allowed by the SDO and the matter was remanded for fresh enquiry to ALT.

04. Post second remand, in Tenancy Case No.1 of 1993, the ALT rejected the prayer of eviction and instead directed the tenants to deposit the arrears of rent, by judgment and order dated 21st March, 2012. The challenge thereto by the petitioner in RTS Appeal No. 89 of 2012 was negatived by the Sub-Divisional Officer by the judgment and order dated 9th October, 2014. The petitioner invoked the revisional jurisdiction of the Maharashtra Revenue Tribunal [MRT]. In Revision No.97/B/2018, by the impugned judgment and order, the learned President, MRT was persuaded to dismiss the

revision holding that the authorities were justified in negativating the claim of the petitioner as there was total non-compliance with the provisions contained in Section 25(2) of the Act, 1948. Being aggrieved, the petitioner has invoked the writ jurisdiction of this Court.

05. Mr.Subodh Shah, learned Counsel for the petitioner strenuously urged that the learned President, MRT did not pose unto himself the relevant questions. The aspect of sub-division of the suit land in breach of the provisions of the Act, 1948, which entails the consequence of eviction under section 14(1)(a)(iii) was not at all adverted to. Since the tenants had admitted in unequivocal terms that they were in arrears of rent, since year 1966-67, the authorities under the Act were not at all justified in non-suiting the petitioner, urged Mr. Shah.

06. An endeavour was made to take the Court through

the material on record including the judgment and orders passed by the authorities under the Act. However, from the very averments in the petition, it becomes evident that the petitioner had given but one notice demanding the arrears of rent on 11th June, 1986. It is not the case that the petitioner/landholder had issued the notices consequent to each default, so as to bring the case within the ambit of sub-section (2) of section 25 of the Act, 1948 and disentitle the tenant from the relief against termination of tenancy for non-payment of rent, envisaged by sub-section (1) of Section 25.

07. From the bare perusal of Section 25 of the Act, 1948, the distinction between its two sub-sections becomes evident. Sub-section (1) empowers a Mamlatdar to grant relief against termination of tenancy for non-payment of rent by facilitating payment of rent on call to the tenant to pay it directly to the landlord or in Court with costs of the proceedings within 15 days from the date of the order and, on failure, to suffer

eviction. Sub-section (2), on the other hand, carves out an exception that if the tenant is in arrears of rent for any three years, the landlord has to give an intimation to that effect to the tenant, within a period of three months, of each default and, in that event, ejectment must follow as a consequence and the relief against forfeiture of tenancy under sub-section (1) cannot be claimed by the tenant.

08. Evidently, the Legislature has consciously provided for the pre-condition of intimation to the tenant within a period of three months of each default. If the tenant commits default in payment of rent for three years despite the intimation thereof, within the stipulated period of each default, the tenant is disentitled from claiming relief against forfeiture. Thus, the intent of the Legislature was that a tenant who commits persistent default inspite of having been intimated, on each default, does not deserve the benefit of relief against forfeiture. Therefore, a strict

compliance with the requirement envisaged by sub-section (2) of Section 25 is insisted upon.

09. The submission on behalf of the petitioners that the tenants had admitted the fact that they were in arrears of rent, for a long period, does not advance the cause of the petitioner as the case would squarely fall within the ambit of sub-section (1). Thus, in the absence of proof of intimation, on each default, under sub-section (2) of Section 25, the authorities were within their rights in negativating the claim of the petitioner.

10. The second ground of eviction based on sub-division of the suit land in contravention of section 27 of the Act, 1948 was negatived by the authorities as there was no cogent evidence of sub-division of the suit-land. It is imperative to note that it is the claim of the petitioner that late Punju Sajan Patil, the predecessor in title of the respondents was the original

tenant. In that view of the matter, the ground of sub-division of suit-land by the heirs of original tenant in contravention of the provisions of Section 27 of the Act, 1948 does not carry much substance. Since the authorities have arrived at a conclusion, based on facts, that there was no credible material to record a definitive finding that tenants have sub-divided the suit land, mere separate cultivation of the suit land by the tenants would not furnish a ground for eviction. Thus, on this count also, there is no justifiable reason to entertain the writ petition in exercise of extra ordinary jurisdiction.

11. Hence, following order:-

The petition stands dismissed.

[N.J.JAMADAR,J.]