

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

4. WRIT PETITION NO. 4579 OF 2020

Khudratulla S/o Vajir Beg,
age major occupation business
R/o Neknoor Taluka & Dist. Beed. ...Petitioner

VERSUS

1. Mohd. Jaffar S/o Osman Khan,
age major occupation agriculture
R/o Neknoor Taluka and Dist. Beed
2. Noormohammad S/o Osman Khan
age major occupation & R/o as above
3. Akbar S/o Mohd. Osman Khan,
age major occup. & R/o as above.
4. The Maharashtra Revenue Tribunal,
Aurangabad
Through its Registrar, Central Building,
Adalat road, Aurangabad. ...Respondents

Mr. P.G. Godhamgaonkar, Advocate for petitioner
Mr. R.D. Sanap, Asstt. Govt. Pleader or respondent No. 4

CORAM : N.J. JAMADAR, J.

DATE : 22nd March, 2021

ORAL ORDER :

Heard the learned Counsel for the petitioner.

2. The challenge in this petition is to the order dated 11th

January 1973 in Revision No. 44/B/1972/Beed, passed by the learned Member, Maharashtra Revenue Tribunal, whereby the revision petition preferred by the predecessor-in-title of the petitioner herein, came to be dismissed for want of prosecution.

3. The said revision was preferred against the judgment and order dated 7th December 1971 of the Collector, Beed, in Appeal No. 71/TNC/A/17, whereby the Collector had dismissed the appeal preferred by the father of the petitioner against the judgment and order passed in Tenancy case No. 70/TNC-142/B by the Naib Tahsildar, Beed, declaring that the respondents herein, were entitled to take possession of the land survey No. 715 admeasuring 26 *acres* 15 *gunthas* situated at village Neknoor (suit land) under Section 32(2) of the Hyderabad Tenancy and Agricultural Lands Act, 1950 (The Act, 1950) by terminating the tenancy of the defendant, the father of the petitioner, under Section 44 of the Act, 1950, to cultivate the land personally. The Appellate Authority had upheld the order of the Tahsildar passed under Section 32(2) of the Act, 1950.

4. It is the case of the petitioner that the petitioner's father was a protected tenant of the suit land. His name was recorded as a

protected tenant in the revenue record. He was in possession of the suit land during his life time. After his demise, the petitioner has been in possession of the suit land. However, the respondents are attempting to disturb the possession of the petitioner on the basis of paper entry.

5. In view of the delay of about 48 years in assailing the order passed by the Maharashtra Revenue Tribunal (M.R.T.), this Court has called upon the petitioner to produce the revenue record pertaining to the suit land. From the perusal of the revenue record, especially the entries in 7/12 extract, it appears that since the year 1972-73, respondents No.1 to 3 have been in cultivation of the suit land.

6. The learned Counsel for the petitioner urged that the Authorities have not properly appreciated the entitlement of respondents No.1 to 3 to take back the possession of the suit land for personal cultivation and, therefore, the impugned order deserves to be quashed and set aside.

7. Evidently, there is inordinate delay in assailing the impugned order. The period of almost half a century has elapsed. The Authorities have recorded a finding that the application for

regaining possession of the suit land was in compliance with the provisions of Section 44 of the Act, 1950 and the respondents bona fide required the suit land for personal cultivation and that they had no other source of income. In the backdrop of the findings recorded by the Tahsildar and the Appellate Authority upholding the claim for restoration of the land for personal cultivation, it would be inexpedient to reopen the issue after a lapse of about half a century. In any event, the Revenue Tribunal exercises limited revisional jurisdiction. The petition, therefore, does not deserve to be entertained.

8. The petition stands dismissed.

(N.J. JAMADAR)
JUDGE

Madkar