

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

WRIT PETITION NO. 10787 OF 2022

Sandipan Rama Ghogre

.. Petitioner

Versus

Anusayabai @ Anuradha Limbaji
Patil Ghaitidak Died through
L.Rs. and others

.. Respondents

Shri Sandeep Y. Mahajan, Advocate for the Petitioner.

**CORAM : SANDEEP V. MARNE, J.
DATE : 17TH OCTOBER, 2022.**

FINAL ORDER :

. In a suit filed by the plaintiff in the year 1988, issue No. 8 is framed as to whether the plaintiff can prove that he is in possession of the suit land as a tenant. That issue came to be referred to the Tenancy Court for decision by order passed on 12th July, 2000. The issue of tenancy came to be answered by the Agricultural Land Tribunal and Tahsildar, Paranda against the petitioner by order dated 09th February, 2018. The petitioner appears to have filed appeal before the Deputy Collector, Osmanabad challenging the decision of the Tahsildar. Though the decision of the Tahsildar is dated 09th February, 2018, the appeal appears to have been filed more than a year later on 31st March, 2019. Pendency of appeal before Deputy Collector was cited as a reason for stay of the proceedings before the Trial Court. By order dated 19th September, 2022, the Trial Court has

refused to suspend the proceedings *inter alia* on the ground that a period of 34 years has passed since the date of filing of the suit. The petitioner is directed to file his evidence, failing which the suit to proceed further.

2. Appearing for the petitioner Mr. Mahajan, learned counsel has relied upon decision of this Court in Baburao Manaji Vs. Gangubai Rambhau reported in **Laws (BOM) 1999 1 4**. Relying on that decision, Mr. Mahajan would contend that the Civil Court should wait till final adjudication of the dispute atleast by all the Revenue Authorities. Relying on the provisions of Section 99 of the Hyderabad Tenancy and Agricultural Lands Act, 1950 Mr. Mahajan would contend that till the petitioner exhausts his remedies against the orders passed by the Tahsildar, the suit cannot proceed. Section 99 and 99A of the Hyderabad Tenancy and Agricultural Lands Act reads thus :

99. Bar of Jurisdiction :

- (1) Save as provided in this Act, no Civil Courts shall have jurisdiction to settle, decide or deal with any question including a question whether a person is or was at any time in the past a tenant or protected tenant and whether any such tenant or protected tenant is or should be deemed to be the full owner of the lands which is by or under this Act required to be settled, decided, or dealt with by the Tahsildar, Tribunal or Collector by the Commissioner or Government.
- (2) No order of the Tahsildar, Tribunal or Collector or the Commissioner, or Government made under this Act, shall be questioned in any Civil or Criminal Court.

99-A-Suits involving issues required to be decided

under this Act :

- (1) If any suit instituted in any Civil Court, involves any issues which are required to be settled, decided or dealt with by an authority competent to settle, decide or deal with such issues under this Act (hereinafter referred to as the competent authority) the Civil Court shall stay the suit and refer such suit to the competent authority for determination.
- (2) On receipt of such reference from the Civil Court, the competent authority shall deal with and decide such issues in accordance with the provisions of this Act, and shall communicate its decision of the suit in accordance with the procedure applicable thereto.

3. I am not impressed by the submissions of Mr. Mahajan. The suit is of the year 1988 and by now period of 34 years has passed. As observed earlier, the petitioner himself delayed filing of appeal before the Deputy Collector challenging the order passed by the Tahsildar. No reason is assigned as to why the petitioner did not challenge the decision of the Tahsildar immediately after 09th February, 2018. The civil court cannot made to wait endlessly till the petitioner exhausts all the remedies of appeals and revision in respect of declaration of his status as tenant.

4. In my opinion, the Trial Court has not committed any error in rejecting the petitioner's application. The petition is devoid of merits and same is dismissed without any orders as to costs.

[SANDEEP V. MARNE, J.]