IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13011 OF 2019

Shri. Pradip Manohar Pednekar ..Petitioner
Versus
Ganpat Ramchandra Mestry
Deceased through legal heirs
Shri. Chandrakant Ganpat Mestry & Anr. ..Respondents

Mr. Arvind G. Kundekar, for the Petitioner.
Ms. Neha Nagothanekar, for the Respondents.

CORAM : NITIN W. SAMBRE, J.

DATE : 13th JULY, 2022

P.C.

1. Heard.

2. The petitioner claiming to be owner of the suit property sought declaration under Section 70(b) of the Maharashtra Tenancy & Agricultural Lands Act, 1948 (hereinafter referred to as “the MTAL Act” for the sake of brevity) that the respondent is not a tenant, protected or permanent. Such proceedings were dismissed by the Tahsildar on 19th April, 2007.

3. Feeling aggrieved petitioner preferred a tenancy appeal under Section 74 of the said Act which also came to be dismissed vide order impugned passed on 13th August, 2013. As such, the petitioner has preferred revision before

the Maharashtra Revenue Tribunal. The Tribunal vide its order dated 1st August, 2019 dismissed the same. As such, this petition.

4. The contentions are, mutation entry 970 and 670 are in the name of predecessor of the petitioner and that being so, it is established that the petitioner was/is in possession of the property, even if its owner was one Dwarkanath Pednekar. Counsel for the petitioner would urge that the Tribunal under the Act has decided the proceedings only based on the pendency of proceedings under Section 88B of MTAL Act at the behest of one Achara Inam Devasthan wherein exemption is claimed from the provisions of the Act. He would urge that aforesaid documentary and oral evidence is not considered.

5. It is strenuously urged that the matter needs to be remanded back to the Tahsildar i.e. Tribunal for deciding the issue after appreciating the evidence.

6. Counsel for the respondents would support the order and it is claimed that the respondent's tenancy over the suit property can be inferred from the revenue entry No.970. It is claimed that on the tiller's day respondent was in possession of the suit property and as such, acquired status of protected tenant.

7. I have appreciated aforesaid submissions.

8. The petitioner has invoked provisions under Section 70(b) of the MTAL Act by initiating proceedings before the Mamlatdar so as to decide status of respondent as that of tenant over the suit property.

9. While seeking such declaration, the claim put forth by the petitioner is that the respondent was never inducted as tenant and petitioner remained in settled possession of the suit property, the rent receipts were never passed on to the respondent. Aforesaid proceedings were initiated having regard to the prayer of the respondent before the Gram Panchayat for construction of the house.

10. In the aforesaid background, if we appreciate the claim put forth by the petitioner in the wake of claim under Section 70(b) of the MTAL Act, it was for the petitioner to demonstrate that respondent was not his tenant and the petitioner remained in cultivating possession of the property.

11. The fact remains that the 7/12 extract reflects the respondent as a tenant from 16th July, 1957 vide revenue entry No.970. As the revenue entry or the subsequent thereto entries taken on revenue record were

never questioned.

12. As such, the Mamlatdar, so also the Sub Divisional Officer and the Revenue Tribunal were justified in concurrently recording findings against the petitioner that petitioner failed to demonstrate that the respondent was never inducted as tenant. As regards proceedings under Section 88B of the MTAL Act at the behest of Achara Inam Devasthan is concerned, same has hardly have bearing over the issue canvassed in the petition. The Maharashtra Revenue Tribunal has in detail gone into the gamut of the matter and rightly so recorded findings against the petitioner. In the aforesaid background, I hardly see any reason which warrants interference in the extraordinary jurisdiction.

13. The petition as such fails, stands dismissed.

[NITIN W. SAMBRE, J.]