

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12003 OF 2015

Ratanlal Premchand Vora
Since deceased through his Legal Heirs
Mr. Arun Ratanlal Vora

.. Petitioner

Versus

Kalavati Bhima Vorse
Since deceased through his Legal Heirs
Vasataben Chaganlal Vora and Ors.

.. Respondents

-
- Mr. Sanskar Marathe i/by Mr. Sagar Sankpal, Advocate for Petitioner.
 - Mr. Mahesh V. Rawool i/by Mr. A.V. Avhad, Advocate for Respondent No.1.
 - Mr. P.P. Pujari, AGP for Respondent – State.

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CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 29, 2022.

P.C.:

1. Heard learned Advocates appearing for the respective parties.

2. Perused the impugned order dated 17.06.2015 passed by the Member (Judicial), Maharashtra Revenue Tribunal (for short “**MRT**”) at Exh. "D" to the Petition. The order of the MRT proceeds on the basis that the order passed by the first Appellate Authority i.e. Sub-Divisional Officer (for short “**SDO**”) required interference despite the production on material evidence in the form of rent-note, *inter alia*, pertaining to cultivation of the property, issued by the predecessor of

Petitioner to the tenant, rent receipt, 7/12 extracts and mutation entries. The learned SDO did not appreciate the evidence and therefore it was imperative that for proper appreciation of the material on record and adjudication of the rights of the parties, the dispute was remanded back to the Additional Tahsildar and ALT for fresh adjudication.

3. Perusal of the impugned order which has partly allowed the Revision Application does not call for any interference. The material considered by the MRT in arriving at its decision is contained in paragraph No.12 of the order which reads thus:

“12. In spite of the above conclusions, it is apparently correct that the present Revision Petitioner is cultivating the land and that finding has not yet been disturbed though the entire judgment has been set aside by the Ld.SDO on the ground of not giving any opportunity to the present Applicant. The execution of rent-note or allowing to cultivate the land on the basis of such registered rent-note was the subject matter before the Civil Court and the Civil Court was the best option for deciding the rights interse.”

4. In view of the above, I find no reason to interfere with the order passed by the MRT which itself indicates that a fair opportunity be given to both the parties to adduce oral and documentary evidence and their submissions and only thereafter decide the Application. The order is sustained.

5. It is directed that learned Tahsildar and ALT who is seized of the matter shall complete the adjudication of the dispute between the parties on its own merits within a period of six months from today

without being influenced by any observations made in this order.

6. It is made clear that all contentions of the parties are expressly kept open.

7. With the above directions, Writ Petition stands disposed of.

[MILIND N. JADHAV, J.]

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