

Prajakta Vartak

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10656 OF 2014

Smt. Kamal Shamgonda Patil & Ors. ..Petitioners
Vs.
Swastishri Jinsen Bhattarak Pattacharya
Mahaswami Math Sansthan Nandani ..Respondent

**AND
WRIT PETITION NO. 10243 OF 2014**

Tatoba Bhupal Magdum ..Petitioner
Vs.
Swastishri Jinsen Bhattarak Pattacharya
Mahaswami Math Sansthan Nandani ..Respondent

Mr. Sunil Karandikar for Petitioners.
Mr. Manoj Patil for Respondent.

**CORAM : G.S. KULKARNI, J.
DATE : JANUARY 05, 2023**

P.C.:

1. Heard Mr. Karandikar, learned counsel for the petitioners and Mr. Patil, learned counsel for the respondent.
2. As both the petitions raise a common challenge and involve similar issues, they are being disposed of by this common order.
3. The orders impugned in this petition are orders dated 11 August,

2014 passed by the Member, Maharashtra Revenue Tribunal, Pune (for short, “MRT”) whereby the revision applications (No.MRT/KP/132/2006) and (No.MRT/KP/133/2006) as filed by the petitioner(s) have been rejected on the ground of delay of 48 years in preferring the said revision application. The revision application was preferred against the exemption certificate dated 30 November, 1958 granted in favour of the respondent-Trust by the Prant Officer Northern Division, Kolhapur under Section 88-B of the Bombay Tenancy Act & Agricultural Lands Act, 1948 (for short, the “said Act”). Such revision application was filed with a delay condonation application dated 02 November, 2006.

4. The case of the petitioners is that they are the tenants in respect of the suit lands and the respondent is the original landlord of the suit lands. The petitioners contend that their ancestors were tenants of the suit lands and therefore, they had become deemed purchasers of the suit lands under Section 32 G of the said Act.

5. It appears from the record that the respondent had obtained a Certificate under Section 88B of the said Act on 30 November, 1958 in respect of the suit lands by virtue of which the respondent was exempted from the application of provisions of Section 32G of the said

Act. The said certificate as issued in favour of the respondent was sought to be challenged in the revision application in question which was almost after 48 years.

6. The learned Member of the MRT not accepting the case of the petitioners on the condonation of delay, has observed that the record indicated that the respondent-Trust was registered with the Charity Commissioner on 30 April, 1955 i.e. prior to tillers day (01 April, 1957). It is also observed that on perusal of the said exemption certificate issued under Section 88B of the said Act, it was noticed that Prant Officer, Northern Division, Kolhapur had categorically recorded that a proper enquiry was held. Further the said exemption granted on 30 November, 1958 was acted upon in as much as there are mutation entries No.4955, 4368, 4325 etc. as also the record of right was maintained with such modifications, which were made by such mutation entries.

7. In these circumstances, the learned Member of the MRT has observed that it is difficult to believe from the record that the petitioners had no knowledge of the exemption certificate issued under Section 88B of the said Act and that too for a period of 48 years. It was observed that it was difficult to believe that the petitioners never examined the

record of rights in relation to the suit lands alleged to be occupied by them for all the years. The learned Member, MRT has also observed that the respondent-Trust had in fact filed Civil Suit No. 150 of 1998 before the Civil Court, Jaisingpur praying for possession of the land. It is also observed that in the Civil Suit, an issue of 88B Certificate was raised and framed. It is also observed that the petitioners had appeared in the said suit and despite knowledge of the Section 88B certificate, the present revision application was filed.

8. Having heard learned counsel for the parties and having perused the record and the impugned order, in facts and circumstances as noted above, I do not find any perversity in the findings as recorded by the learned Member, MRT in rejecting the application on the ground of delay of 48 years. The findings/reasons as contained in the impugned order are based on record. The petitions are without merit. They are accordingly rejected. No costs.

[G.S. KULKARNI, J.]