

VRJ

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

WRIT PETITION NO.555 OF 2018

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Vasant Pandurang Kusale & Anr. ... Petitioners

V/s.

Vidya Alias Rohini Vijay Joshi & Anr. ... Respondents

Mr. Yuvraj P. Narvankar with Mr. Mayur Mohite for the petitioners.

Mr. Drupad S. Patil with Ms. Srushti Chalke for the respondents.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 25, 2023

P.C.:

1. The petition arises out of refusal to refer issue of tenancy to the authorities under the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948 (hereafter, "BTAL Act, 1948", for short).

2. According to the defendants, issue of tenancy arises for consideration before the Civil Court and, therefore, the Trial Court ought to have framed the issue of tenancy.

3. During the course of arguments, parties agree that status of defendants as tenant of agricultural land is not in dispute. However, in view of provisions of section 43(a) of the BTAL Act, 1948, the land was let out for sugarcane cultivation and, therefore,

provisions enumerated in section 43(a) of the BTAL Act, 1948, would not be applicable.

4. Since the status of the defendants continues to be tenant to whom provisions of section 43(a) of the BTAL Act, 1948, are applicable, the learned advocate for the plaintiffs, on instructions, seeks permission to withdraw the suit with liberty to adopt proceedings under section 29 of the BTAL Act, 1948. Plaintiffs are, therefore, permitted to withdraw suit with liberty to adopt proceedings under section 29 of the BTAL Act, 1948.

5. The plaintiffs are, therefore, permitted to file application under section 29 of the BTAL Act, 1948, which if filed shall be decided in accordance with law by the authorities under the act.

6. In view of above, nothing remains to be adjudicated in the petition. The writ petition is, therefore, disposed of. No costs.

(AMIT BORKAR, J.)