

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13684 OF 2022**

Maya Digambar Dhumal	...	Petitioner
versus		
The State of Maharashtra and Ors.	...	Respondents

Mr. Sagar G. Talekar, for Petitioner.
Mr C.D.Mali, AGP for State.

CORAM: N.J.JAMADAR,J.

DATE : 21 APRIL 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This Petition under Article 227 of the Constitution of India assails the legality, propriety and correctness of an order passed by the learned Member, Maharashtra Revenue Tribunal (MRT) at Pune, in Revision Application No.5 of 2015, whereby the Revision preferred by the Petitioner against an order dated 29 October 2015 passed by the Sub-Divisional Officer, Daund-Purandar in Tenancy Appeal No.20 of 2014 came to be dismissed.
3. Mr. Maruti Ganpat Pawar was the grand father of the Petitioner. Maruti purchased the agricultural land bearing old Survey No.12/7, 12/14, Gat No.36 (new) / 41 (old), and 27 (new) / 32 (old) respectively. Babu Mahadu Ramoshi (Shitkal), the predecessor in title of Respondent Nos.4 to 18 was the tenant in the suit lands. Maruti obtained a certificate under Section 88C of the Maharashtra Tenancy and Agricultural

Lands Act, 1948 (the Act of 1948).

4. The Petitioner asserts, yet Babu obtained certificates under Sections 32G and 32M of the Act, 1948 by suppressing the fact that the exemption certificate under Section 88C of the Act, 1948 was already granted. Mutation Entry Nos.7013 and 7704 came to be certified in the name of Babu and, after his demise, the names of his legal representatives came to be mutated to the record of rights of the suit lands. However, the documents pertaining to the grant of certificate under Sections 32G and 32M and the consequent mutations, are not forthcoming in the record maintained by the authorities.

5. The Petitioner, thus, preferred an Appeal being Tenancy Appeal No.20 of 2014 before the Sub-Divisional Officer assailing the order passed by the ALT on 24 June, 1968, on the strength of which the names of deceased Babu and his legal representatives came to be mutated. Since there was delay of about 46 years in preferring appeal, the Petitioner prayed for condonation of delay. By an order dated 29 October 2015, the Sub-Divisional Officer rejected the application for condonation of delay as no sufficient cause could be shown to account for the delay of 46 years.

6. Being aggrieved, the Petitioner preferred Revision before the MRT under Section 76 of the Act, 1948. The learned Member, MRT concurred with the view of the Sub-Divisional Officer that there was no justification to condone delay of 46 years. The learned Member further noted that even if the case of the Petitioner

that the exemption was granted under Section 88C of the Act, 1948 was taken at par, yet the predecessor in title of the Petitioner had not taken further steps as envisaged under Sections 32G and 29 of the Act, 1948 and. therefore, the order passed by the ALT on 24 June 1968 did not warrant any interference.

7. Being further aggrieved, the Petitioner has invoked the writ jurisdiction of this Court.

8. First and foremost, the reasons ascribed for delay in assailing the order passed by the ALT on 24 June 1968 before the Sub-Divisional Officer deserve to be noted. In the application for condonation of delay, apart from questioning the validity of the order passed by the ALT, the Petitioner asserted that the Petitioner being an illiterate lady could not comprehend the true import of the order passed by the ALT. Later on, it transpired that the order passed by the ALT is void ab-initio and, therefore, after gathering information and documents, appeal came to be preferred.

9. In the light of the aforesaid nature of the cause ascribed for the delay of 46 years, the Sub-Divisional Officer cannot be said to have been committed any error in declining to exercise the discretion to condone the delay. By any standard, the delay is inordinate. The reasons ascribed for condonation of delay for such an inordinate period do not carry conviction. A general ground of illiteracy is sought to be ascribed. The authorities were, thus, justified in declining to condone such an inordinate delay.

10. The learned Member, MRT, it seems, was right in holding that notwithstanding the grant of certificate under Section 88C of the Act, 1948, the ALT was justified in granting a certificate under Sections 32G and 32M of the Act, 1948 for failure on the part of the landlord to initiate steps to take possession of the suit lands. Under Section 29(2) of the Act, 1948, no landlord can obtain possession of any land or dwelling house held by a tenant except under an order of Mamlatdar. The landlord is enjoined to make an application within a period of two years from the date on which right to obtain possession of the land is deemed to have accrued to the landlord. Evidently, no steps were taken by the landlord to take possession of the suit lands after the grant of certificate under Section 88C of the Act, 1948. Thus, on this count as well, no fault can be found with the impugned order.

11. Hence, the Petition does not deserve to be entertained and, accordingly, stands rejected.

(N.J.JAMADAR, J.)