

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4063 OF 2018

(PANDURANG RAMCHANDRA LAHORE (DEAD) THR. LRS...VS.. GANGABAI SHRIDHAR
KULKARNI (DEAD) THR. LRS.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms Astha Sharma, Adv. h/f. Shri P.R.Agrawal, Advocate for Petitioners.
Shri S.V.Sohoni, Advocate for Respondent.

CORAM : ANIL S. KILOR, J.
DATED : FEBRUARY 22, 2023.

1. Heard.
2. The order dated 27/02/2018 passed below Exhs.153 and 159, rejecting the application for stay of the suit and for framing of additional issues, is under challenged in this writ petition.
3. The learned counsel for the petitioners submits that the issue as regards the tenancy is pending before the Maharashtra Revenue Tribunal (MRT) and therefore, the application under Section 125 of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (hereinafter referred to as "Tenancy Act") was moved that till the decision of the MRT, the suit shall be stayed. It is further pointed out that the application for framing of an issue as regards tenancy was also moved, however, both the applications came to be rejected without considering the provisions of law.

4. On the other hand, the learned counsel for the respondent points out that the issue as regards tenancy was already concluded by the judgment of this Court in Civil Revision Application No.1146 of 1995. He further submits that even otherwise also the application filed by the petitioner for grant of stay to the suit, is not maintainable.

5. In the light of rival contentions, I have perused the record and the impugned order.

6. The whole controversy revolves around Section 125 of the Tenancy Act therefore, it would be appropriate to refer to Section 125 of the Tenancy Act, which reads thus:

“125. Suits involving issues required to be decided under this Act. - (1) If any suit instituted in any Civil Court, involves any issues which are required to be settled, decided or dealt with by any authority competent to settle, decide or dealt with such issues under this Act (hereinafter referred to as the "competent authority") the Civil Court shall stay the suit and refer such issues to such competent authority for determination.

(2) On receipt of such reference from the Civil Court, the competent authority shall deal with and decide such issues in accordance with the provisions of this Act and shall communicate its decision to the Civil Court and such Court shall thereupon dispose of the suit in accordance with the procedure applicable thereto.

Explanation. - For the purpose of this section a Civil Court shall include a Mamlatdar's Court constituted under the Mamlatdar's Courts Act, 1906 .”

7. From the above referred provisions, it is clear that if any suit instituted in any Civil Court, involves any issues which are required to be settled, decided or dealt with by any authority competent to settle, decide or dealt with such issues under this Act the Civil Court shall stay the suit and refer such issues to such competent authority for determination. Thereupon such competent authority shall deal with and decide such issue in accordance with the provisions in the Tenancy Act and shall communicate its decision to the Civil Court, thereupon the Civil Court shall dispose of the suit in accordance with the procedure applicable thereto.

8. In the present case, it is not the case that the Civil Court thought it necessary to refer any issue involved in the present suit for determination by the Competent Authority under the Tenancy Act, however, in the present case the petitioner sought stay saying that the issue of tenancy is pending before the Maharashtra Revenue Tribunal.

9. In the circumstances, I am of the opinion that the reasoning recorded by the learned trial Court while rejecting the application are proper and no interference is required.

Accordingly, the Writ Petition is **dismissed**.
No order as to costs.

JUDGE

RRaut..