

AGK

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

WRIT PETITION NO.14084 OF 2016

Prakash Avadhoot Mehendale & Ors. ... Petitioners
V/s.
The State of Maharashtra & Ors. ... Respondents

Mr. Sumit S. Kothari for the petitioners.

Mr. S.A. Rajeshirke for respondent No.2C.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 13, 2024

PC.:

1. The petitioners are challenging order dated 3 September 2016 passed by the Maharashtra Revenue Tribunal (“MRT”) confirming order passed by the Tahsildar under Section 70-B of the Maharashtra Tenancy & Agricultural Lands Act, 1948 (“the Act”) declaring respondent No.2 as agricultural tenants in relation to 2/3rd share in land bearing Survey No.144 Hissa No.1B ad-measuring 21-Are and Survey No.84 Hissa No.2 ad-measuring 1-Are at Village Gimhavane, Taluka Dapoli, District Ratnagiri.

2. Respondent No.2 filed an application under Section 70-B of the Act seeking a declaration that he be declared as tenant. On 26 July 2002, the Tahsildar declared Respondent No.2 as tenant of property in dispute. Said proceeding went up to MRT in first round of litigation and the MRT by order dated 28 September 2009

directed the Tahsildar to decide respondent No.2's claim again after granting opportunity to all the parties.

3. In the second round of litigation, the Tahsildar, Sub-Divisional Officer and MRT concurrently held respondent No.2 to be the tenant in the property. The petitioners, therefore, are challenging concurrent orders by way of present writ petition.

4. According to the petitioners, they are owners of 1/3rd share in relation to Survey No.144/1B and 84/2. According to them, therefore, in absence of necessary documents produced before the Tenancy Authorities, the Authorities could not have declared respondent No.2 as tenant in the property in dispute.

5. Per contra, learned advocate for respondent No.2 submitted that the decision to declare respondent No.2 as tenant in the property has been accepted by the landlord. The petitioners have no concern with 2/3rd share in relation to the property in dispute and, therefore, the petitioners have no locus to file the present writ petition.

6. Having heard advocates for the parties and having considered the judgments delivered by the Authorities below, it appears that the Authorities below have recorded a finding of fact that the entire property was divided into two parts by registered partition deed assigning 2/3rd share to Mrs. Bhate and 1/3rd share in favour of predecessor of the petitioners. In support of the said finding, statements of petitioners recorded by the Revenue Authorities under Section 149 of the Maharashtra Land Revenue Code, 1966 was considered. The MRT, therefore, proceeded to

confirm the orders of the lower Authorities on the ground that respondent No.2 has established that the land in relation to which she is seeking declaration belongs to Mrs. Bhate who has allotted 2/3rd share. There is no relation between predecessor of the petitioners and Mrs. Bhate. Therefore, the petitioners cannot be treated as 'persons aggrieved' by the declaration of respondent No.2 as tenant in the agricultural land.

7. The Authorities below relied on statements of neighbouring persons in support of respondent No.2's claim of tenancy. The ground of sufficiency of evidence cannot be considered at the instance of the petitioners as the petitioners have no locus to challenge the declaration of respondent No.2 as tenant. Therefore, the writ petition at the instance of petitioners' claiming 1/3rd share which is distinct portion than the property in dispute cannot be entertained.

8. The writ petition, therefore, stands dismissed. No costs.

(AMIT BORKAR, J.)