



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4054 OF 2023

Shri. Parashram Kondaji Kirkade
and another

.....Petitioners

Vs.

Shri. Bhaskar Rambhau Lokhande
and others

.....Respondents

Mr. Prashant D. Patil Advocate for the Petitioner

Mr. S. G. Karandikar Advocate for the Respondent nos. 1 and 2

Smt. S. S. Bhende, AGP for the State.

CORAM : GAURI GODSE, J.

DATE : 19th JANUARY 2024.

P.C.

1. This petition challenges the order passed by the Maharashtra Revenue Tribunal ('MRT'), Mumbai allowing the Revision Application of respondent nos. 1 and 2. By the impugned order, MRT quashed and set aside the order of the Deputy Collector by which the application of the respondent nos. 1 and 2 filed for eviction under Section 84(c) of

the Maharashtra Tenancy and Agricultural Land. ('the Tenancy Act') was rejected. Thus, MRT held that application by respondent nos. 1 and 2 for eviction of petitioners under Section 84 (c) of the Tenancy Act is proper and thus directed the Tahsildar to hand over possession of the suit property to respondent nos. 1 and 2.

2. Learned counsel for the petitioners submitted that respondent nos. 1 and 2 are not original landlords and that possession of the suit property was never handed over to them. He submits that the respondent nos. 1 and 2 are subsequent purchasers. Hence, they are not entitled to claim eviction of the petitioners under Section 84(c) of the Tenancy Act.

3. Learned counsel for respondents nos. 1 and 2 submits that the claim of the petitioners under Section 32G claiming to be protected tenants is rejected and the order is confirmed up to the High Court. He submits that there is no bar that an application cannot be filed by a subsequent purchaser. He submits that in similar facts, this Court in the case of **Desmond Lawrence Gudhino Vs. Trevore Joseph Harold**

Dsouza and others¹ had dismissed the petition raising a similar challenge and held that once it is demonstrated that the status of the respondents in the eviction proceedings is unauthorized and the requirements under Section 84 of the Tenancy Act are fulfilled i.e. by demonstrating their lawful title to the suit property and status of the occupant as unauthorized, the order under Section 84(c) of the Tenancy Act for eviction is to be issued in favour of the owner.

4. Learned counsel for respondent nos. 1 and 2 submits that the said decision of this Court has been confirmed by the Apex Court by order dated 14th October 2022. He therefore submits that there is no substance in the ground of challenge raised on behalf of the petitioners that respondents nos. 1 and 2 will not be entitled to seek the eviction as they are subsequent purchasers.

5. I have perused the papers of the petition. It is not disputed that the petitioners' claim under Section 32G claiming to be protected tenants is rejected and the same is confirmed by the High Court. Title of respondent nos. 1 and 2 is also not in dispute. Thus, the

¹ Writ Petition No. 10952 of 2019

requirements for seeking summary eviction under Section 84 of the Tenancy Act is satisfied by establishing the title of respondent nos. 1 and 2 and the occupation of the petitioners to be unauthorized as the claim of the petitioners based on being protected tenant is rejected up to High Court.

6. In view of the facts of the present case, the proposition of law laid down in the aforesaid decision relied upon on behalf of the respondent nos. 1 and 2 squarely apply to the facts of this case.

7. I do not find any merit in the submissions made on behalf of the petitioners. The petition is devoid of any merits. The petition is dismissed.

[GAURI GODSE, J.]