

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3442 OF 2023

Smt. Bhagu Genu Tattu since Deceased Thr. ...Petitioner
LRs Smt. Sahindrabai Babu Karle

Versus

Tahsildar Khed, District-Pune And Ors ...Respondents

Mr. Nitin Deshpande for the Petitioner.
Ms. T.J. Kapre, AGP for Respondent Nos. 1, 2, 3 and 5.
Mr. Laxman Deshmukh for the Respondent No.6.

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**CORAM : NITIN JAMDAR AND
M.M. SATHAYE, JJ.**

DATE : 6 MARCH 2024

P.C. :

. Heard learned counsel for the parties.

2. By this petition under Article 226 and 227 of the Constitution of India, the Petitioner is challenging the order dated 22 January 2021 passed by the Deputy Collector, Land Acquisition No.13, Pune, by which the objection of the Petitioner raised under Section 33 of the Maharashtra Industrial Development Corporation Act, 1961 (for short 'the said Act'), is rejected.

3. It is the case of the Petitioner that his predecessor Bhagu Genu

Tattu was the owner of the subject matter land which is Gat No. 200 admeasuring 5 H 26 R situated at village Shinde, Taluka Khed, District Pune. It is contended that by Mutation Entry No. 409 name of one Ganpat Raghu Matale has been shown as non tenant (bigar cur). It is the case of the Petitioner that the name of the predecessor of Bhagu Genu Tattu was shown in other right column for land 2H 7 R shows of said Matale shown in the predecessor column. It is contended that award has been passed under Section 33 of the said Act in respect of the subject matter land in which name of the Bhagu Genu Tattu is shown appearing in other right column of 7/12 extract. It is contended that Respondent No.6 has never got himself declared as tenant under the Maharashtra Tenancy and Agricultural Lands Act. It is contended that therefore, after the award, the Petitioner filed her objection to not dispose of award amount to anybody else. The Petitioner himself has contended in the petition that on 18.01.2022, the Deputy Collector has called for a report from Tahsildar, Khed, upon which Tahsildar has issued notices to the parties for hearing. It is contended that ultimately by impugned order, the Petitioner's objection is rejected without properly considering the claim of the Petitioner. In this circumstances, the Petitioner has approached this Court challenging the impugned order.

4. Respondent No.6 filed reply dated 13 January 2024 opposing the case of the Petitioner. It is contended *inter alia* that the title of the Petitioner shows that petition is filed in the name of dead person

Bhagu Genu Tattu, who has expired way back in the year 1930 and the petition is being prosecuted by her alleged legal heirs Sahindrabai Babu Karle. It is contended that grandfather of Respondent No.6 late Shri. Ragho Dhondi Matale was protected tenant in respect of the subject matter land, whose name was ultimately entered in the revenue record under Mutation Entry No. 409 dated 13.12.1948, as occupant thereof. It is contended that Genu Balaji Tattu was the landlord of ancestor of Respondent No.6 who died in the year 1915 leaving behind his only son Dharma Genu Tattu and wife Bhagu Genu Tattu. It is contended that Dharma Genu died in 1922 itself, who was unmarried at the time of his death. It is contended that Bhagu Genu (wife of Genu Balaji) was recorded in the Revenue Record who died in 1930. It is contended that after death of Bhagu Genu nobody has come forward claiming to be her legal heirs and after a long time of 18 years, the names of predecessors of Respondent No.6 was entered on 13.12.1948. It is contended that after more than about 70 years, present Petitioner claimed to be legal heirs of Bhagu Genu is raising untenable objection. It is ultimately submitted that the Petitioner has absolutely no connection with Bhagu Genu and no documents are produced to substantiate so called heirship. It is contended that these are disputed questions of facts which requires evidence and therefore, the Petitioner should file appropriate proceeding in the Civil Court for declaration of her right if she is claiming to be legal heir of Bhagu Genu. It is contended that after due inquiry the objections are rejected and no interference

is called for.

5. We have heard learned counsel for both the sides. We have carefully considered the rival submissions and perused document produced on record. Perusal of the impugned order shows that it is based on a detail inquiry report submitted by Tahsildar of the concerned village dated 29.11.2021. It is further seen from the documents produced on record that by order dated 04.08.2023, the competent authority under the Maharashtra Tenancy and Agricultural Land Act has deleted the name of Bhagu Genu after hearing the Petitioner claiming to be legal heir of Bhagu Genu. The impugned order categorically records that the Petitioner Sahindrabai has not procured any document to substantiate her claim as legal heir of Bhagu Genu and she is free to seek appropriate declaration from the Civil Court. It is further clearly concluded that documents prior to acquisition clearly indicate possession and use of the subject matter property by the family of Respondent No.6. It is further observed that pursuant to the public notice, nobody else has come forward to stake any claim and therefore, the petition of the Petitioner is rejected.

6. In the facts and circumstances narrated above, after a gap of 70 years, it is not possible to appreciate the claim of the Petitioner for the first time under the writ jurisdiction. The impugned order already makes it clear that Petitioner has opportunity to adopt appropriate civil proceeding for seeking declaration of her right. The

impugned order passed on material available on record and the view taken is clearly most properly viewed. There is no perversity or error apparent on record. In light thereof, no interference is called for.

7. Writ Petition is rejected. No order as to costs.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)