

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4899 OF 2024.

Govind Goma Gaikar, Smt. Laxmi Govind Gaikar (Both Deceased)
through LR's and Others ...Petitioners.

Versus

Gopal Babu Patil (since deceased)
through LR's and Others. ...Respondents.

*Mr. Abhay S. Khandeparkar, Senior Advocate a/w Mr. Rushikesh G. Bhagat, Mr. Rohit P. Mahadik, Ms. Apoorva Khandeparkar, Mr. Saurabh Mittal, Mr. Farhan Shaikh, Mr. Nihir U. Dedhia i/b Mr. Anilkumar Joshi for the Petitioner.
Mr. Mahendra Agvekar and Mr. Kiran Patil for the Respondent.*

Coram : Sharmila U. Deshmukh, J.

Date : December 13, 2024.

P. C. :

1. The question which would arise for consideration is whether the Agreement for Sale executed between the parties would amount to "Sale" under Section 54 of the Transfer of Property Act, 1882 so as to invoke the provisions of Section 43 of the Maharashtra Tenancy and Agricultural Lands Act, 1948 [for short, "***the Tenancy Act***"].
2. Mr. Khandeparkar, learned Senior Advocate would also submit that apart from this above, as there was no challenge to the subsequent sale pursuant to the auction, a vested right was created in the petitioners which could not have been set aside by the Maharashtra Revenue Tribunal.

3. This is disputed by learned counsel appearing for Respondent by submitting that in Revision before the Sub-Divisional Officer, the auction order passed under Section 84C of the Tenancy Act along with all consequential acts was challenged. He would also submit that the Application under Section 84C was preferred by the Petitioner after a period of 18 years and therefore, the aspect of delay would also come into play.
4. Stand over to **14th January, 2025.**

[Sharmila U. Deshmukh, J.]