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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

VASANT
ANANDRAO
IDHOL

WRIT PETITION NO.8780 OF 2024

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VASANT
ANANDRAO IDHOL
Date: 2024.06.26
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Bapu G. Ghoalkar

..Petitioner

V/s.

Pandu D. Chile, since deceased
through L.Rs. & Ors.

..Respondents

Mr.Prajakt Arjunwadkar for the Petitioner.

Ms.Snehal S. Jadhav, AGP for the Respondent.

CORAM : AVINASH G. GHAROTE, J.

DATE : 26TH JUNE, 2024.

P.C. :-

1. Heard Mr.Arjunwadkar, learned counsel for the petitioner. The petition questions of order of Agricultural Land Tribunal (ALT), Panhala in Tenancy case no.32/G/Devale Paijarwadi/140 (page 26) dated 29.5.1992 rejecting the application of the petitioner under section 32 of the Maharashtra Tenancy & Agricultural Lands Act, 1948 (M. T. & A. L/ Act); the judgment in tenancy appeal under section 74 of

B.T. & A. L. Act dated 13.9.1995 (page 30), dismissing the appeal and the judgment of the M.R.T. dated 19.4.2024 dismissing the revision. It is the contention of learned counsel for the petitioner that the petitioner was a tenant in respect of Survey No. 145 (Gat No.383), admeasuring 23.31 acres. The claim of tenancy, is made on the basis of a registered lease deed dated 19.3.1943, which indicates that the lease was for a duration of 12 years and therefore, would expire in March, 1955 (page 22). He therefore contends that the petitioner has been in cultivating possession of a portion of the aforesaid land, as the lease was a joint lease in favour of Dnyanu Chile, Rau Pihtu Chile, Tuka Vithu Chile and Govinda krishna Ghosalkar. The Authorities below have rejected the claim on the ground that the petitioner has not placed on record anything to indicate the payment of rent as on the tillers' date and possession. The A.L.T. in its order records that only three rent receipts upto 1949 were filed by the petitioner and nothing has been filed consequent thereto to indicate his cultivation possession. The 7/12 extract which are placed on record also do not indicate the cultivating

possession of the petitioner. Neither the Gaon Nanuma 8-A or record of rights, or any other entry has been brought on record to indicate the cultivating possession of the petitioner. Learned counsel for the petitioner relies upon paragraph 4.4 of the judgment of the Sub-Divisional Officer, (S.D.O.) (page 31) which says that Bapu tuka Chile in his statement before the Talsildar has admitted the cultivating possession of the petitioner by saying that the petitioner has built a house and is residing there. This statement at the most, would assert that the petitioner has constructed a house in a portion of the aforesaid land, but would not indicate his cultivating possession. That apart, the petitioner has not come with specific case as to which portion of the aforesaid land was in his cultivating possession. For the purpose of seeking a declaration as to a deemed tenant what is necessary to be established is cultivating possession of specific portion of a land, which is absent in the instant matter.

2. Nothing has been brought to my notice to enable me to take a different view than what has been taken by the Authorities below. I therefore, do not see any reason to interfere

in the concurrent findings recorded by the Authorities below.

The petition is dismissed. No costs.

(AVINASH G. GHAROTE, J.)