



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No.6862 of 2019

WAMANARAO GANPATRAO AKHARE AND OTHERS

VS

GULABCHAND SEWARAM FIRM PALSHI, THR. ANANDILAL HAJARILALA ALIAS
HAJARIMAL RATHI AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N. R. Saboo, Advocate for the Petitioner/s

Ms S.W. Deshpande, Advocate for the respondent Nos.3 to 4

CORAM : ANIL S. KILOR, J.

DATED : 06.02.2024

1. Heard.
2. In this petition, the order dated 20.06.2019 passed by the Maharashtra Revenue Tribunal (MRT), Nagpur in a proceeding arising out of the application filed by the petitioners for determining purchase price and thereby, partly allowing the revision and holding that, the petitioners are entitled to purchase 1/6th land out of 12.24 HR land of Gut No.156 of Mouza Ladnapur, is under challenge.
3. The learned MRT held that the respondent Nos.3 and 4 are entitled to 5/6th share as per the decree and precept issued in Regular Civil Appeal (RCA) No.53 of 1994, and RCA No.104 of 1996 decided by the Additional District Judge, Khamgaon, on 30.09.2002.
4. The petitioners raised the challenge to the said order on the ground that, the Tahsildar initially passed the order on the

application filed under Section 41 of the Maharashtra Tenancy and Agricultural lands (Vidarbha Region) Act, 1958 (for short “the Tenancy Act”) by the petitioners for determining the purchase price and allowed the application in favour of the petitioners vide order dated 15.10.2007, which was the subject matter of challenge before the Sub Divisional Officer (SDO) in appeal.

5. The SDO set aside the order of the Tahsildar dated 15.10.2007 and remanded the matter back to the Tahsildar for fresh decision.

6. Thereupon, the Tahsildar partly allowed the application and held that the petitioners are entitled for purchase of half share of the land in question ie. to the extent of 6.12 HR.

7. Then, the landlords and the petitioners filed two separate appeals before the SDO. The SDO vide order dated 05.03.2016, passed in appeal filed by the landlords, set aside the order of the Tahsildar dated 07.03.2011.

8. At this juncture, it is pertinent to note that in the appeal filed by the landlords, the respondent Nos.3 and 4 filed an application for intervention and the same was allowed.

9. Against the dismissal of the appeal by the SDO, the landlords have not preferred any revision application before the MRT, whereas, the petitioners preferred the revision application.

10. At the same time, the respondent Nos.3 and 4, who were declared as joint tenants by the Civil Court, have also not filed any revision application.

11. The revision application filed by the petitioners was allowed by the MRT and held the petitioners entitled to purchase $1/6^{\text{th}}$ share in the land in question, admeasuring 12.24 HR vide order dated 20.06.2019

12. From the perusal of the impugned order, as far as the respondent Nos.3 and 4 are concerned, the Tribunal has nowhere observed that, they are entitled to purchase $5/6^{\text{th}}$ Share in the land in question. However, the Tribunal has only observed that the respondent Nos.3 and 4 are having $5/6^{\text{th}}$ share as per the decree passed in RCA No.53 of 1994.

13. In the circumstances, the contentions of the learned counsel for the petitioners that, without filing application under Section 41 of the Tenancy Act the respondent Nos.3 and 4 are held to be entitled to purchase the land in question to the extent of $5/6^{\text{th}}$ share, is misconceived and without any basis.

14. It is evident on the face of the impugned order that, the MRT has not held the respondent Nos.3 and 4 entitled to purchase the land in question, but only observed that they are entitled to $5/6^{\text{th}}$ share as per the decree of the Civil Court. Rightly so, as till date there is no proceedings filed by the respondent Nos.3 and 4 for such entitlement to purchase the land in question to the extent of their share. Even otherwise, in absence of any such application moved by the respondent Nos.3

and 4, under Section 41 of the Tenancy Act, no relief holding the respondent Nos.3 and 4 entitled to purchase the land in question, can be granted.

15. In the circumstances, I do not find any merits in the present writ petition, accordingly, it is **dismissed**.

16. It is made clear that the respondent Nos.3 and 4 are at liberty, if they so desire, to make an application for such relief.

[ANIL S. KILOR, J.]