2025:BHC-AUG:22872

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8221 OF 2024

Sarika W/o Pandharinath Bhosale
Age: 45 years, Occu: Agriculturist
R/o. Mouje Chikhli, Tq. Ashti,
Dist. Beed.

…..**PETITIONER**
(Original Applicant)

VERSUS

1. Kundanlal S/o Shobhachand Bora
Age: Major, Occu: Agriculturist
R/o Mouje Pimpla, Tq. Ashti, Dist. Beed.
(Deleted as per Court's Order dated 25.04.2025)

2. Bhausaheb S/o Limbaji Mukinde
Age: Major, Occu: Agriculturist
R/o. Mouje Pimpla, Tq. Ashti, Dist. Beed

3. Shivaji S/o Damu Mukinde
Age: Major, Occu: Agriculturist
R/o Mouje Pimpla,
Tq. Ashti, Dist. Beed.

…..**RESPONDENTS**
(Original opponents)

4. The Tahsildar Tenancy, Ashti,
Tq. Ashti, Dist. Beed.

5. The Deputy Collector (L.R.) Beed.

…..**RESPONDENTS**
(Authorities)

Mr. H. V. Tungar, Advocate for the Petitioner
Mr. B. B. Bhise, AGP for Respondents-State
Mr. A. B. Kale, Advocate for Respondent nos.2 and 3

CORAM : ROHIT W. JOSHI, J.
DATED : 13TH AUGUST, 2025

ORAL JUDGMENT :-

. The petitioner takes exception to order dated 29.12.2023, passed by the learned Maharashtra Revenue Tribunal, Aurangabad in Revision Petition No.52/B/21/Beed and the order dated 27.08.2021, passed by the Deputy Collector (LR), Beed in Appeal No.2019/BHU.SU.VI.KU.A.PRA /4/10.

2. The dispute between the parties arises out of the provisions of the Hyderabad Tenancy and Agricultural Lands Act, 1950. The petitioner claims to be duly constituted attorney of one Suman Narsu Kale. This Suman Narsu Kale is daughter of one Bhagchand Bhanja Bhosle. It is the case of the petitioner that Bhagchand Bhanja Bhosle has purchased portions of two lands bearing survey no.506(346 new) admeasuring 1.82 HR i.e. 4 Acres 22 Gunthas out of total area of 21 Acres, 37 Gunthas and survey no.505(345 new) admeasuring 2.22HR i.e. 5 Acres, 22 Gunthas out of total area of 17 Acres 39 Gunthas vide registered sale deed dated

22.03.1991. It is the case of petitioner that these lands were originally bearing survey nos.287 and 285 respectively. The case of the petitioner is that land bearing survey no.285 was re-numbered as survey no.506 and thereafter as survey no.346 and land bearing survey no.287 was re-numbered as 505 and thereafter as 345.

3. As against this, the case of respondent nos.2 and 3 is that they are descendants of one Haba Maruti, who was holding the said lands as also another land bearing survey no.508 as tenant under the provisions of the Hyderabad Tenancy and Agricultural Lands Act, 1950. According to the respondent nos.2 and 3, survey no.285 was admeasuring around 40 Acres. Land bearing survey no.285 was divided into two parts i.e. survey nos.506 and 505, which were subsequently re-numbered as 346 and 345 respectively. It is their contention that the survey no.287 was re-numbered as 508.

4. The petitioner claims ownership over 4 Acres, 22 Gunthas land in survey no.506(346) and 5 Acre, 22 Gunthas land in survey no.505(345) on the basis of the sale deed dated

22.03.1991 executed in favour of her father by the respondent no.1. Likewise, the respondent nos.2 and 3 claim ownership on the basis of entire land bearing survey no.506(346) and 505(345) on the ground that their predecessor Haba Maruti was a protected tenant, who acquired ownership over the same under the provisions HTAL Act.

5. The case of petitioner is that the predecessor of respondent nos.2 and 3 had surrendered tenancy with respect to the said land. However, the case of respondent nos.2 and 3 is that their predecessor had surrendered tenancy with respect to land bearing survey no.287, which was re-numbered as survey no.506 and not the lands bearing survey nos.506(346) and 505(345). This is the dispute between the parties in sum and substance.

6. On the basis of the sale deed dated 22.03.1991, Mr. Bhagchand Bhosle intended to get his name mutated in the revenue record. At this stage, the tenant raised an objection to the mutation proceedings. Mutation entry in favour of Mr. Bhagchand Bhosle was ordered to be cancelled by the Tahsildar, Ashti, vide order dated 29.10.1991. This order

dated 29.10.1991 is earlier confirmed by the Sub Divisional Officer and thereafter by the Collector, Beed in appeal preferred by Mr. Bhagchand Bhosle. The orders were not carried further by him. The aspect of mutation thus attained finality between the parties.

7. Thereafter, the present petitioner filed a proceeding before the tenancy Tahsildar, Ashti, bearing file no.2016/Inam/tenancy/file no/46. The Tahsildar has passed order dated 24.05.2019 in the said proceeding observing that the applicant was entitled to the land purchased by Mr. Bhagchand Bhosle under the aforesaid sale deed dated 22.03.1991. This finding is recorded on the ground that the tenancy of survey no.506 was surrendered by the tenant.

8. The respondent nos.2 and 3 challenged the said order by filing appeal under Section 90 of the Hyderabad Tenancy and Agricultural Lands Act, which was allowed by the Deputy Collector (General), Beed vide order dated 27.08.2021. The present petitioner preferred a revision under Section 91 of the said act, which is rejected by the learned Maharashtra Revenue Tribunal vide judgment and order dated 29.12.2023.

9. These orders passed in appeal and revision respectively are impugned by the petitioner by filing the present petition.

10. At the outset, it needs to be mentioned that undisputedly, deceased Bhagchand Bhosle has expired and one Suman Narsu Kale is daughter of said Bhagchand Bhosle, who has purchased the land vide sale deed dated 22.03.1991. The petitioner Sarika Pandharinath Bhosle claims to be duly constituted attorney for Suman Narsu Kale on the basis of alleged power of attorney dated 09.01.2017. As per the petitioner, Suman Narsu Kale is sister of her husband. However, there is no averment in the petition that she is prosecuting the petition as constituted attorney for Suman Narsu Kale. However, the learned Advocate for the petitioner has shown a copy of power of attorney, executed by Suman Narsu Kale in favour of the petitioner Sarika Pandhari Bhosle. It will be pertinent to mention that the proceeding was initiated by the petitioner in her own name by filing application before the tenancy Tahsildar. The learned Advocate contends that this power of attorney dated 09.01.2017 is also filed on record before the learned

Maharashtra Revenue Tribunal. It will be pertinent to state that the application before the tenancy Tahsildar which is filed on 24.08.2016, is also filed in the name of petitioner-Sarika Pandharinath Bhosle. The date of application appears to be prior to the date on which power of attorney is executed by Suman Narsu Kale in favour of the petitioner.

11. It must also be mentioned that if the petitioner was prosecuting the proceeding as constituted attorney of Suman Narsu Kale, the proceeding ought to have been prosecuted in the name of Suman Narsu Kale with the name of petitioner as duly constituted attorney. However, all throughout the proceeding is prosecuted by the petitioner in her own name without even mentioning that she was prosecuting the proceeding in the name of and for on behalf of Suman Narsu Kale as per constituted attorney. The power of attorney was filed on record for the first time before the Revisional Authority i.e. Maharashtra Revenue Tribunal and that too at the stage when the matter was closed for final arguments. In the present petition also the petitioner does not state that she is prosecuting the same, for and on behalf of Suman Narsu

Kale. The averments in the proceedings indicate that the petitioner (Sarika) is claiming to be daughter of Bhagchand Bhosle. The petitioner (Sarika Bhosle) claims that Suman Narsu Kale is sister of her husband (Pandharinath) It is difficult to comprehend as to why the husband of the petitioner did not prosecute the proceeding since he would obviously be a legal heir of deceased Bhagchand Bhosle alongwith Suman Narsu Kale. In the event, the husband is no more, the petitioner herself would be legal heir of deceased Bhagchand Bhosle. There appears to be something more than what meets the eye. However, no definite opinion can be formed in this regard.

12. As regards merits of the matter, the learned Advocate for the petitioner contends that the tenant had surrendered tenancy with respect to land bearing survey no.287, which according to him was re-numbered as survey no.505 and thereafter as survey no.345. He contends that after the tenancy was surrendered and entry with respect to the surrender was taken in the Abstract of Protected Tenancies. According to him, the relevant entry regarding surrender of

tenancy was scored off. He states that by mis-representing the authorities it was sought to be contended that the tenancy of the predecessor of the respondent nos.2 and 3, continued over land bearing survey no.287. Perusal of the Abstract of Protected Tenancies demonstrates that survey no.287 was re-numbered as survey no.508. It will be pertinent to mention that in the register, there is also a reference to survey no.285, below which new survey no.506 is mentioned. It is also necessary to state that the original survey no.285 and 287 are written in ink and the new survey nos.506 and 508 are mentioned in pencil. The contention of the learned Advocate for the petitioner is that survey no.287 was re-numbered as survey no.505. He places reliance on extract of Register of Protected Tenancies. In this document, which is filed at Exh.32 alongwith petition, following survey numbers are mentioned:

> *285/506, 287/505 and 287/1 the areas of these lands are mentioned as 40, 5 and 5.*

While mentioning the area, the unit i.e. Acre or Guntha is not mentioned. The contention of the learned Counsel for the petitioner is that while the issue of tenancy of the respondent nos.2 and 3 and their predecessor was being decided by the authorities, the exact area of tenancy ought to have been determined. He states that the figures 40 and 5, which are mentioned in the register do not specify the unit and therefore, one cannot make out as to whether the tenancy was with respect to 40 Acres or 40 Gunthas. He next contends that the tenancy is not with respect to 40 acres since the total area of survey no.285 was only 21 Acres and 37 Gunthas. It needs to be mentioned again that according to the learned Advocate for the petitioner, survey no.285 and 287 were re-numbered as 506 and 505 respectively and thereafter, the same were re-numbered as 346 and 345.

13. As against this, this is the contention of the learned Advocate for respondent nos.2 and 3 that survey no.285 itself was divided into two parts as survey no.505 and 506. According to the learned Advocate for the respondent nos.2 and 3, survey no.505 was thereafter re-numbered as survey no.345 and survey no.506 was re-numbered as 346. The learned Counsel for the respondent nos.2 and 3 states that survey no.287 was re-numbered as 508 and thereafter 348.

The learned Advocate for the respondent nos.2 and 3 states that surrender of tenancy was with respect to survey no.287, which was re-numbered as survey no.508 and thereafter, survey no.348. In order to substantiate this contention, he draws attention to three documents, being Khasara Patraks of land survey nos.505, 506 and 508, in which old and corresponding new survey numbers of lands in question are mentioned with their areas as under:

Old survey no.	New survey no.	Area
505	345	17 Acres, 39 Gunthas
506	346	21 Acres, 37 Gunthas
508	348	5 Acres, 20 Gunthas

14. The entries in Khasara Patraks record area of survey no.505 (new no.345) and survey no.506 (new no.346) as 17 Acres, 39 Gunthas and 21 Acres, 37 Gunthas respectively. The total area of these two survey numbers comes to 39 Acres and 36 Gunthas. One Acre comprises of 40 Gunthas, therefore, area of survey no.505 (new no.345) and survey no.506 (new no.346) is almost the same as area of survey no.285, as recorded in Register of Protected Tenancies. This will indicate that the tenancy of respondent nos.2 and 3 pertains to 40

Acres of land and not 40 Gunthas.

15. As per entry in the Abstract of Protected Tenancies, the total area of survey no.285 is 40 acres. The area of survey nos.505(345) and 506(346) is 39 Acres and 36 Gunthas as per the Khasara Patraks. Reading the entry in Register of Protected Tenancies and Khasara Patraks together gives credence to the contention of the learned Advocate for the respondent nos.2 and 3 that 285 was split into survey nos.505 and 506, which was subsequently re-numbered as 345 and 346.

16. It will be pertinent to mention that in the Register of Tenancies, there is an entry which pertains to surrender of tenancy with respect to survey no.287 and the corresponding new number of this survey number is mentioned as 508. The area of survey no.287 (new no.508) is mentioned as 5. However, as stated above, the unit of area is not mentioned. This figure 5 is read alongwith the Khasara Patrak of survey no.508 at record, page 94 will indicate that the area is mentioned as 5 Acres and 20 Gunthas. The Khasara Patrak of survey no.508 also has the following endorsement:

The protected tenant has left the field on his own *accord"*

17. This endorsement on the Khasra Patrak corroborates with the entry in the record of protected tenancies. The contention of respondent nos.2 and 3 that the surrender was with respect to survey no.508, which was subsequently re-numbered as survey no.348 is therefore fortified by the fact that the entry of surrender of tenancy with respect to 287/508 finds corroboration with the entry in the Khasra Patrak.

18. In view of the above, I find no reason to take a different view of the matter than the one which is taken by the learned Collector and Maharashtra Land Revenue in the impugned orders. Writ Petition is therefore **dismissed** with no orders as to cost.

19. At this stage, the learned Advocate for respondent nos.2 and 3 states that in view of the interim orders that order passed by the revenue authorities have altered the mutation entries. The mutation entries be recorded in the light of present judgment.

20. Civil Application, if any, stands disposed of.

(ROHIT W. JOSHI, J.)

Rushikesh/2025