



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2935 OF 2020

Ramesh Ramdas Kulkarni & anotherPetitioners

VERSUS

Zendu Chatru Sonawane & othersRespondents

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Mr. M. M. Bhokarikar, Advocate for the Petitioners.

Mr. K. N. Lokhande, AGP for the State.

Mr. R. L. Kute, Advocate for Respondent Nos. 1 to 6.

CORAM : R. M. JOSHI, J.

DATE : 25th JULY, 2025.

PER COURT :

1. By consent of both sides, heard finally at the stage of admission.

2. This Petition takes exception to the order passed by the Revenue Tribunal rejecting the Application preferred by the Petitioner filed under Section 43-1B of the Maharashtra Tenancy and Agricultural Lands Act. This order came to be unsuccessfully challenged before the Sub Divisional Officer and Maharashtra Revenue Tribunal.

3. The facts as they appear from record indicate that Gat No. 208 is the subject property which was admittedly owned by a widow late Geetabai. She died on 03.06.1986 leaving behind her, her only heir i.e. daughter Durgabai. An Application came to be filed by the Petitioner before the Revenue Tribunal for seeking possession of the subject land under Section 43-1B of the Act. The said Application was rejected on the ground that the Petitioners have no locus to prefer the Application under the said provision as they are not included in the definition of landlord as provided by Section 43-1A. The order passed by the Tahsildar/Agricultural Lands Tribunal came to be challenged before the Sub Divisional Officer who rejected the appeal by order dated 28.03.2011. Challenge to the said order before the Maharashtra Revenue Tribunal also was unsuccessful in view of order dated 02.07.2019.

4. Learned counsel for Petitioner has filed written notes of arguments so also made oral submissions. The crux of arguments is that there is statutory duty cast upon the Tribunal to exercise powers under Section 32(P) of the act for summary eviction of tenancy. It is his submission that since the tenant has failed to purchase the land

within statutory period, there ought to have been an order of eviction of the tenancy. He placed reliance on following judgments :-

- (i) Tukaram Maruti Chavan vs. Maruti Narayan Chavan
2008(6) Bom.C.R. 570 (SC)
- (ii) Babu Vithu Gaikwad vs. Chintaman Sadashiv & others
2007(5) Bom.C.R. 70 (SC)
- (iii) Appa Narsappa Magdum vs. Akubai Ganpati Nimbalkar
& others
1999(3) Bom.C.R. 584
- (iv) Mahadev S. More vs. Sukde S. More
AIR 2016 Bom 151
- (v) Bakulabai Rama Niakwadi vs. Vithob Babaji Bhagat
2007 (Supp) Bom.C.R. 836.
- (vi) Laxman @ Bhaiyya Pandurang Edake vs. Vishwanath
Kashinath Chemate
2007 (Supp) Bom.C.R. 557
- (vii) Motiram Jagannath Bhoir vs. Rajaram Gopal Mhaskar
2005(1) BomC.R. 325
- (viii) Shamrao Maruti Patil and another vs. Smt. Shantabai
Dattatraya Salokhe
1994(4) Bom.C.R. 432
- (ix) Vishnu Shantaram Desai vs. Smt. Indira Anant Patkar
AIR 1972 Bom 207.

5. Learned counsel for Respondents supported the impugned order. It is his contention that unless the Application is held to be maintainable by Petitioner under the provisions of Section

43-1B, the question of grant of any relief to the Petitioner does not arise.

6. There is no dispute about the fact that the Application is filed under Section 43-1B and that this is not a proceeding suo motu undertaken by the Tribunal. In order to maintain such Application, the Petitioners are required to show that they are landlords within meaning of definition as provided by the Act. Pertinently for this Chapter, the definition has been introduced by the Statute which reads thus :-

In this Chapter, unless the context requires otherwise, “landlord” means a landlord (including a certificated landlord within the meaning of section 33A) who is, or has ceased to be, a serving member of the armed forces; and in relation to the land of a landlord who is dead, includes his widow, son, son’s son, unmarried daughter, father or mother.

It is necessary to take note of the fact that Chapter III-AA is introduced to the Statute book with effect from 10.03.1965 . This is a special provision, meant to provide for the procedure for seeking relief in the cases covered by Rule 41B. The definition of ‘Landlord’ is specified therein, which would have application to this Chapter.

Merely because someone is heir of original landlord/landowner, he does not become landlord for the application of this Chapter.

7. In order to invoke the provisions of Section 43-1B of the Act, the Petitioners have to satisfy firstly that they are landlords within meaning of said provision.

8. Admittedly, herein this case, at the relevant time, Smt. Geetabai was landlady/landowner of the subject land. She was not member of Armed forces. It is therefore rightly observed by the authorities below, the Petitioners are not landlords within meaning of the said definition. It is also observed by the Maharashtra Revenue Tribunal that had the original owner being the serving member of the armed forces, it would have been different case altogether and the Petitioners being the legal heirs of such individual, would have been treated as Landlord. Since it is not so, the Petitioners cannot be considered to be the landlords under the said provision.

9. Insofar as the submissions made with regard to power to be exercised by the Tribunal is concerned, this Court while dealing with the Petition challenging the order passed by the Tribunal

confirmed upto the Maharashtra Revenue Tribunal, and while deciding correctness or otherwise of the order, this Court need not go into the said issue. Suffice it to say that there is no perversity in the impugned order to cause interference therein. Hence, the Petition stands dismissed.

(R. M. JOSHI)
Judge

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