

Gitalaxmi

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3306 OF 1991

K. C. Rathod (D.H.)

1A) Kesarbai Kisan Rathod & Ors. ... Petitioners

V/s.

Meghasham Bhalchandra Sathe & Ors. ... Respondents

Mr. Shrishail Sakhare, Adv. for the Petitioners.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 21, 2025

P.C.:

1. Challenge in this Petition under Article 227 of the Constitution of India is directed against the judgment and order dated 21st September, 1990, passed by the Maharashtra Revenue Tribunal (hereinafter referred to as “the MRT”), whereby the Petitioners’ Application for condonation of delay of 234 days in filing the Revision came to be dismissed. The said Revision challenged an order rendered by the authorities under the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as “the Act”), in exercise of powers under Section 84(c) of the Act. It is contended on behalf of the Petitioners that the MRT’s refusal to condone the delay, in the peculiar facts of the present case, has resulted in grave prejudice to the Petitioners’ right to be heard on merits.

2. In this regard, it is well-settled that Article 227 of the Constitution of India vests this Court with supervisory jurisdiction,

to correct errors of jurisdiction and grave legal infirmities or injustices arising from orders of lower Courts or Tribunals. This constitutional power enjoins upon this Court the duty to ensure that justice is done in a fair manner and not defeated by mere technicalities of procedure, particularly in matters where substantial rights of parties are involved.

3. According to the Petitioners, their predecessor-in-title was a protected tenant in respect of the suit property. The landlord had initiated proceedings under Section 70-B of the Act seeking a negative declaration that the Petitioners' predecessor was not a tenant in the disputed agricultural land. That application, however, came to be rejected and the order of rejection was subsequently confirmed by the MRT, thereby attaining finality.

4. In determining the legal effect of the proceedings instituted under Section 70-B of the Act, it is imperative to note that the authorities under the Act are enjoined to decide questions of tenancy rights by conducting detailed inquiries, bearing in mind the protective framework extended to agricultural tenants under the Bombay Tenancy and Agricultural Lands Act, 1948. Once such proceedings are concluded up to the level of the MRT and the order therein attains finality, the same operates as *res judicata* or at the very least a binding determination on the rights and status of the parties.

5. Notwithstanding the adverse finding in the Section 70-B of the Act proceedings, the landlord initiated an application under Section 84(c) of the Act seeking summary eviction of the

Petitioners on the ground that their possession was unauthorized. The authority of first instance allowed this application, which finding was confirmed by the Collector vide order dated 22nd June, 1985. Against the said order, the Petitioners preferred Revision Application No. 8 of 1986 on 15th April, 1986, occasioning a delay of 234 days. By way of explanation, the Petitioners pleaded that the delay was caused due to the illness of their predecessor-in-title, who was suffering from a serious ailment (described as “lever tumbler”), and also alleged non-communication of the appellate authority’s decision.

6. The nature of proceedings under Section 84(c) of the Act being summary in character necessitates a circumspect approach when it comes to the rights of parties claiming tenancy. A tenant, or one claiming such status, cannot be lightly evicted without a thorough consideration of whether he holds any statutory protection. When the earlier negative declaration sought by the landlord had already been rejected and confirmed in appeal, it would *prima-facie* suggest that the Petitioners’ predecessor had a colour of right or at least an arguable case regarding their possession.

7. In these circumstances, the MRT, while considering the Petitioners’ plea for condoning the delay, ought to have examined the sufficiency of the cause shown in a liberal manner, especially in light of the settled legal position that the Courts and Tribunals must lean towards deciding matters on merits rather than dismissing them on the threshold of limitation. The rationale behind such a liberal approach is that procedural rules are meant

to serve as the handmaiden of justice, not to thwart it. Had the MRT applied these principles, it would have found cogent reasons to condone the delay, particularly since the Petitioners had explained the period of delay with reference to serious illness and absence of any intentional lapse on their part.

8. Moreover, it deserves emphasis that prior to the initiation of proceedings under Section 84(c) of the Act, the landlord's efforts to secure a negative declaration under Section 70-B of the Act had failed and stood concluded before the MRT. This significant factual matrix should, in equity, have weighed heavily in favor of giving the Petitioners an opportunity to advance their contentions on merits rather than stifling the same for technical reasons.

9. Bearing in mind the totality of circumstances, and the fact that the substantive rights of agricultural tenants under the Act stand on a high pedestal, it would undoubtedly serve the ends of justice if the MRT were to examine the Revision Application on its merits and after giving due opportunity of hearing to both parties. This Court, in the exercise of its supervisory jurisdiction, is inclined to set aside the impugned order and direct the MRT to re-adjudicate the dispute, with full consideration of the records, evidence, and submissions, in accordance with law. Such a course, in my considered opinion, will ensure that the protective intent of the Bombay Tenancy and Agricultural Lands Act, 1948 is not defeated by mere technical pleas regarding limitation.

10. Hence, I pass the following order :-

- i. The impugned judgment and order dated 21st September,

1990, passed by the MRT in Revision Application No. 8 of 1986, is hereby quashed and set aside.

ii. The proceedings are restored to the file of the MRT, Mumbai, for a fresh decision on merits, strictly in accordance with law.

iii. The MRT shall grant reasonable opportunity of hearing to both the Petitioners and the landlord, and thereafter dispose of the Revision Application expeditiously, without being influenced by any observations herein.

11. In view of the above directions, the Petition stands disposed of. There shall be no order as to costs. The MRT is expected to address the Revision on priority, given the protracted history of the litigation and the significant interests of agricultural tenancy at stake.

(AMIT BORKAR, J.)

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KRISHNA
KOTAWADEKAR

Digitally signed by
GITALAXMI KRISHNA
KOTAWADEKAR
Date: 2025.02.21
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