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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 553 OF 2017
WITH
CIVIL APPLICATION NO. 134 OF 2017
IN
SECOND APPEAL NO. 553 OF 2017**

Bidu Tukaram Gurav and Ors ... Appellants/Applicants

vs.

Gajanan Sawanta Mali and Ors ... Respondents

Mr. Umesh Mankapure a/w. Mr. Amol Kanaki, for Appellant/Applicant

Mr. Nagesh Chavan for Respondent No. 3.

Ms. Manjiri S. Parasnis for Respondent No.5.

CORAM : GAURI GODSE, J.

DATED : 6th JANUARY 2025

ORDER:

1. This second appeal is preferred by plaintiff nos. 1 to 4. The suit for possession is dismissed. The suit was filed by the present appellants and the trust through the trustees. The suit was filed on the ground that there was an exemption certificate issued in favour of the trust under Section 88B of the Maharashtra Tenancy and Agricultural Lands Act, 1948. The suit is dismissed by holding that the plaintiffs were unable to prove that there was an exemption certificate granted. Trial court's decree is confirmed in the first appeal filed by the present appellants.

2. There is no dispute that the suit property belongs to the trust. However, the trust has not chosen to file any appeal. Admittedly, the present appellants are neither the trustees nor are they the owners of the suit property. The present appellants claim to be Pujaris who perform religious function in the temple belonging to the trust.

3. Learned counsel for the appellants submits that the change report regarding the change in the trustees was pending before the Charity Commissioner.

4. There is no dispute that the certificate under Section 88B was not produced before the court. The trust who is admittedly owner of the property is represented through advocate in this second appeal. However, the trust has not chosen to file any appeal to challenge the impugned judgments and decrees dismissing the suit for possession. Hence, the present appellants would not have any locus to file the second appeal as admittedly they have no right, title and interest in the suit property.

5. The second appeal is therefore dismissed. In view of dismissal of the second appeal, the pending civil application is disposed of as infructuous.

(GAURI GODSE, J.)