

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.7180 OF 2025**

Shri Ramchandradeo Trust Karnal,
A trust registered under Mumbai
Public Trusts Act, 1950
Through its President
Mr. Raghunath Eknath Patil
Age: 84, Occ: Agriculture,
R/o- Karnal, Tal: Miraj,
Dist: Sangli

....Petitioner

Versus

1. Sambhaji Baburao Chavan
Age: 32, Occ: Agriculture,
R/o- Karnal, Tal: Miraj, Dist: Sangli.
2. Hari Baburao Chavan
(Deceased)
3. Dinkar Baburao Chavan
Age: Adult, Occ: Agri.
R/o- Karnal, Tal: Miraj, Dist: Sangli.
4. Padmavati Yashwant Mane
Age: Adult, Occ: Household
R/o- Danoli, Tal: Shirol, Dist: Kolhapur.
5. Sajabai Pandurang Patil
Age: Adult, Occ: Household
R/o- Aalate (Limba),
Taluka: Tasgaon, Dist: Sangli
6. Malutai Dattatraya Mane
Age: Adult, Occ: Household
7. Rajakka Manohar Mane
Age: Adult, Occ: Household,
Both 6 and 7
Residing at: Danoli,
Tal: Shirol, Dist: Kolhapur.
8. Nandatai Dattatraya Nangre
Age: Adult, Occ: Household
R/o- Mukkam Post: Bendre,
Tal: Tasgaon, Dist: Sangli.
9. Gajanan Vilas Tate
Age: Adult, Occ: Agri.

10. Dilip Vilas Tate
Age: Adult, Occ: Agri.
11. Sonabai Vilas Tate
Age: Adult, Occ: Agri.
All 9 to 11 Residing at
Karnal, Tal: Miraj, Dist: Sangli.
12. Rajutai Bhimrao Ghorpade
Age: Adult, Occ: Agri.
R/o- Mhaisal, Tal: Miraj, Dist: Sangli.
13. Shantabai Ramchandra Sankpal
Age: Adult, Occ: Household,
R/o- Alkud M.Tal: Kavathemahankal, Dist: Sangli.
14. Ranjana Baburao Ankale
Age: Adult, Occ: Agri.
15. Vimal Ashok Tate
Age: Adult, Occ: Agri.
16. Ganesh Ashok Tate
Age: Adult, Occ: Agri.
All 14 to 16 residing at
Karnal, Tal: Miraj, Dist: Sangli.
17. Anita Rajaram Ghorpade
Age: Adult, Occ: Agri.
R/o- Mouje Digraj,
Near Water Tank,
Tal: Miraj, Dist: Sangli.
18. Sunita Sunil Pawar
Age: Adult, Occ: Agri.
R/o- Ganesh Nagar,
7th Galli, Icchalkaranji,
Tal: Hathkanagale, District: Kolhapur.
19. Kundalik Dhondiram Tate
Age: Adult, Occ: Agri.
20. Dilip Dhondiram Tate
Age: Adult, Occ: Agri.
21. Mangal Vasant Shinde
Age: Adult, Occ: Agri.
All 19 to 21 Residing at
Karnal, Tal: Miraj, Dist: Sangli
22. Balwant Dattu Patil
Residing at: Ekta Chowk,

Karnal, Tal: Miraj, Dist: Sangli.

23. Sub Divisional Officer,
Miraj, Fort Area, Miraj,
Sangli Miraj Kupwad-416410

24. The State of MaharashtraRespondents

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Mr. Kuldeep U. Nikam, Advocate for Petitioner.

Mr. Prajakt Arjunwadkar, Advocate for Respondent Nos.1, 3 to 22.

Mr. S. D. Rayrikar, AGP for Respondent Nos.23 and 24.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 08th OCTOBER, 2025.

PRONOUNCED ON : 14th OCTOBER, 2025.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties, matter is taken up for final hearing at admission stage.

2. The present Writ Petition takes exception to order dated 20.09.2024 passed by Maharashtra Revenue Tribunal, Pune Division in KP/15/2023, thereby setting aside order dated 28.02.2023 passed by Sub Divisional Officer, Miraj under Section 88B of Maharashtra Tenancy and Agricultural Lands Act (for short 'MT and AL Act') granting certificate of exemption in favour of petitioner.

3. The petitioner is Public Trust having Registration No.SSA-600. It owns agriculture land in Gut Nos.94 and 334. Those lands are in possession of respondent nos.1 to 21. The petitioner-Trust made an application under Section 88B of MT and AL Act before Sub Divisional Officer at Miraj contending that Trust is established on 18.12.1946. It has been registered on 20.07.1953. The scheme of Trust has been

formulated on 31.03.2001 under order of Competent Authority. The third persons are put into possession of lands by then Trustees on the basis of oral agreement with the then Trustees. The petitioner-Trust wants to repossess property. The Trust is Temple Trust and formulated to carry rituals and maintenance of Shriram Temple. The accounts of Trust are duly audited through Chartered Accountant. The three years' reports certified by Chartered Accountant are placed alongwith application. The entire income of Trust is spend towards object of Trust. Therefore, Trust is entitled for exemption under Section 88B of MT and AL Act. The Sub Divisional Officer rejected application vide order dated 16.11.2017.

4. The petitioner-Trust filed Revision Application before MRT, who remanded matter back to Sub Divisional Officer for fresh hearing vide order dated 04.09.2019. The Sub Divisional Officer, Miraj allowed petitioner's application after remand vide order dated 28.02.2023 and granted exemption under Section 88B of MT and AL Act with respect to Gut Nos.91 and 334. The respondents assailed order of Sub Divisional Officer under Section 76 of MT and AL Act before MRT. The MRT allowed Revision application of respondents observing that application tendered by petitioner-Trust was not in conformity with Rule 52 of Maharashtra Tenancy and Agricultural Lands Rules, 1956 (for short 'Rules of 1956'), as particulars required in terms of sub-rule (2) of Rule 52 are absent in application. The MRT observed that Sub Divisional

Officer has not properly appreciated legal and factual position and erroneously allowed application of petitioner granting exemption under Section 88B of MT and AL Act.

5. Mr. Kuldeep Nikam, learned Advocate appearing for petitioner submits that it was admitted fact that petitioner is registered Trust and owns agriculture lands. Those lands are in possession of respondents. The necessary particulars of property owned by Trust, its object and expenses are mentioned in application. The Sub Divisional Officer had appreciated pleading and material on record while allowing application. However, MRT set aside order on erroneous count.

6. Per contra, Mr. Prajakt Arjunwadkar, learned Advocate appearing for respondents vehemently submits that Rule 52 of Rules of 1956 prescribes procedure for grant of certificate by Collector under Section 88B. Sub-rule (2) of Rule 52 requires that application of Trust must state as to whether Trust is registered or deemed to be registered. The purpose for which Trust is created and manner in which income from lands belonging to it is appropriated. The application must be appended with balance sheet certified by registered auditor, list of lands which are property of Trust, certified copies of extracts of record of rights relating to lands and such other documents in support of his request and upon enquiry by Collector, if satisfaction is recorded that conditions laid in proviso to sub-section (1) of Section 88B are complied, certificate to that effect can be issued. Mr. Arjunwadkar

would further submit that Section 88B provides for exemption of certain provisions to lands, which are property of Trust or institution for public religious worship when entire income of such land is appropriated for purpose of Trust. However, petitioner-Trust failed to comply with aforesaid requirements. In support of his contentions he relies upon observations of this Court in case of ***Kondiba Laxman Hanmar Vs. Krishnarao Anandrao Dalavi***¹ and judgment of Supreme Court in case of ***Smt. Laxmibai S. Patil and Others Vs. Badashah Sultan Mutwal***².

7. Having considered submissions advanced by learned Advocates appearing for respective parties and on perusal of record tendered into service, it can be observed that there is no dispute that petitioner is registered-Trust and it owns agriculture lands as stipulated in application. The object of Trust appears to carry rituals and maintenance of Shriram Temple. Perusal of application filed by Trust under Section 88B of MT and AL Act depicts that particulars of registration of Trust are specifically mentioned. The scheme of Trust appears to have approved by Competent Authority on 31.03.2001. The particulars of lands owned by Trust are also mentioned alongwith its valuation. The expected income from lands is stated to be Rs.5,00,000/-, however, respondents who are in possession of lands are contributing amount of Rs.9000/- per month. In paragraph no.4, there

¹ 2004 (4) Mh.L.J. 324.

² 1995 AIR SCW 2042.

is specific mention that Trust spent entire income towards object of Trust. It is, therefore, apparent that requisite particulars in terms of Rule 52 of Rules of 1956 were given alongwith necessary documents. However, impugned order dated 20.09.2024 passed by MRT records that such particulars are absent. The MRT has also observed that particulars of expenditures are not provided alongwith application or Sub Divisional Officer has not recorded his findings on aforesaid aspects.

8. The Supreme Court in case of ***Smt. Laxmibai S. Patil and Others*** (supra) observed in paragraph no.8 as under:

“Hence, Condition (ii) of the proviso to Clause (b) of Sub-section (1) of Section 88-B of the BT & AL, in our view, requires a trust which seeks to obtain an exemption certificate under Section 88-B of the BT & AL Act in respect of certain lands, to establish before the Collector that the entire income derivable by it in respect of only such lands for which exemption certificate is sought was being appropriated for the purposes of the Trust and not the entire income derivable by it in respect of its other lands for which no exemption certificate was sought.”

9. Similarly this Court in case of ***Kondiba Laxman Hanmar*** (supra) observed in paragraph no.7 as under:

“Insofar as the finding recorded by the authorities below that the entire income of land bearing Survey No. 383 was appropriated for the purposes of the Trust, the same is presumably founded on entries in Schedules VIII and IX, which was produced on record. Those entries and certification by Chartered Accountant appears to be of year 1971. Since the matter is remanded to examine the issue as referred to above, the Authority will also examine as to whether the material already on record or to be produced by the parties, would establish the position that the entire income of the suit land was appropriated for the purposes of the Trust as on 1st April

1957, which will be the relevant date for issuance of exemption certificate under section 88B of the Act.”

10. In light of aforesaid exposition of law, this Court finds that neither Sub Divisional Officer nor MRT has properly looked into pleading and evidence on record or recorded conclusive findings on crucial issue as to entitlement of petitioner-Trust, who seeks exemption under Section 88B of MT and AL Act. *Prima facie*, this Court finds that application tendered by petitioner seeking exemption under Section 88B contains necessary information in terms of Rule 52. However, even assuming that there are some shortfalls as to requirements under sub-rule (2) of Rule 52, petitioner-Trust needs to be given an opportunity to amend application and incorporate necessary details required for effective adjudication of issue. The petitioner-Trust must be given opportunity to lead necessary evidence in support of their contentions in application. At the same time, respondents must be given an opportunity to rebut contentions of petitioner-Trust and lead necessary evidence.

11. In that view of matter, so as to give quietus to litigation between parties, this Court holds that proceeding needs to be relegated back to Sub Divisional Officer at Miraj, who shall decide application of petitioner-Trust afresh after granting opportunity to amend pleading and lead evidence to both parties. Hence, following order:

ORDER

a. Writ Petition is partly allowed in terms of prayer Clause (a).

- b. The Sub Divisional Officer at Miraj shall consider and decide application of petitioner-Trust afresh by granting opportunity to both parties to amend pleading and record evidence.
- c. Parties shall appear before Sub Division Officer at Miraj on 03.11.2025.
- d. The Sub Divisional Officer shall endeavour to decide application expeditiously and in any case, within period of six months from date of appearance of parties.
- e. Parties to co-operate for early disposal of application.
- f. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE