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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6134 OF 2017
WITH
CIVIL APPLICATION NO.786 OF 2019

Bhimgonda Lingonda Patil, deceased
through LRs Yalgonda Bhimgonda
Patil & Ors.

... Petitioners

V/s.

The Managing Director, Shri
Panchganga Sugar Factory & Ors.

... Respondents

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Mr. Sunil G. Karandikar with Mr. Vishwanath B. Rajure
for the petitioners/applicants.

Mr. Vijay Singh i/by Mr. Abhijit A. Desai for respondent
No.1.

CORAM : AMIT BORKAR, J.

DATED : APRIL 24, 2025

P.C.:

Civil Application No.786 of 2019:

1. At the request of learned Advocate for the petitioner, leave granted to delete petitioner Nos.3 and 6a from the array of parties.
2. For the reasons stated therein, civil application is allowed to the extent of bringing on record petitioner No.6b.
3. Amendment to be carried out forthwith.

Writ petition No.6134 of 2017:

4. Challenge in this writ petition under Article 227 of the Constitution of India is directed against the judgment and order passed by the Maharashtra Revenue Tribunal, whereby the revision application filed by the petitioners came to be dismissed, affirming the concurrent findings of fact recorded by the Sub-Divisional Officer and the Talathi, holding that the petitioners have failed to establish tenancy rights in respect of the suit land.

5. The backdrop of the matter finds its origin in Regular Civil Suit No.195 of 1973 instituted by the petitioners in the Court of the Civil Judge, Junior Division, Ichalkaranji. The suit was filed seeking a decree of permanent injunction against the defendants, alleging interference in their lawful possession of the suit land. In the said suit, the Trial Court, having regard to the nature of the dispute, by order dated 19th October 1974, framed six issues, of which issues Nos.1, 2, and 4 were referred for determination to the competent tenancy authority in view of the bar under Section 125 of the Bombay Tenancy and Agricultural Lands Act, 1948. These issues are as under:

“(1) Does the Plaintiff prove that the suit lands were in possession of Plaintiff’s father, deceased Lingonda, as tenant since prior to 1925?

(2) Does the Plaintiff prove that his alleged tenancy right was subsisting till 26.04.1973 and was not terminated?

(3) Does the Plaintiff prove that the sale deed dated 26.08.1970 executed by Defendant No.2 in favour of

Defendant No.1 is void and illegal?”

6. The Tahsildar, upon a detailed appreciation of the material placed before him, answered the reference by order dated 12th November 2013, returning a categorical finding that the petitioners failed to discharge the burden of proof cast upon them to establish that the father of the petitioners was in possession of the suit land as a tenant. This finding was tested before the Sub-Divisional Officer in appeal and thereafter before the Maharashtra Revenue Tribunal in revision. Both Authorities have, in well-reasoned orders, upheld the conclusion arrived at by the Tahsildar. It is this chain of concurrent orders which is now under challenge before this Court.

7. A careful perusal of the pleadings and the record reveals that the initial entry of the petitioners' predecessor in the suit land was in the capacity of a mortgagee. Admittedly, the suit property was mortgaged in favour of the predecessor-in-title of the petitioners, and a decree for redemption was passed at the instance of the mortgagor. In such circumstances, the burden lay heavily upon the petitioners to demonstrate, by cogent and unimpeachable evidence, that the possession held by their predecessor as a mortgagee had, upon redemption, transformed into lawful possession as a tenant. The transformation of status from a mortgagee in possession to that of a lessee is neither automatic nor presumed in law. It requires positive proof of a fresh jural relationship, either by express grant or by conduct so unambiguously clear as to admit no other inference.

8. The petitioners have not produced any documentary or oral evidence suggestive of any transaction or arrangement between the mortgagor and the mortgagee whereby the nature of possession was altered from that of mortgagee to tenant. The revenue documents and entries produced on record are silent on this crucial aspect and merely record the factum of possession without shedding light on its legal character. In the absence of any evidence suggesting creation of leasehold rights, the Authorities under the Act were right in discarding the theory of tenancy as an afterthought or a self-serving assertion devoid of legal foundation. It is well settled that tenancy, being a question of fact, must be pleaded with specificity and proved with certainty. Vague averments or passive possession do not confer tenancy rights in the eyes of law.

9. The concurrent findings of fact recorded by all three Authorities—the Tahsildar, the Sub-Divisional Officer, and the Maharashtra Revenue Tribunal—are borne out by the material on record. They are not vitiated by perversity, non-application of mind, or error of jurisdiction. The writ jurisdiction under Article 227 is not meant to re-appreciate evidence or to substitute the view of this Court for that taken by the fact-finding authorities. So long as the findings are supported by some evidence, the supervisory jurisdiction of this Court must remain circumspect and confined to correcting errors of law or procedure.

10. In the present case, no legal infirmity or jurisdictional error in the impugned orders has been demonstrated. The petitioners, having failed to prove tenancy in accordance with law, cannot seek

relief under Article 227 to overturn concurrent findings of fact. The attempt is more in the nature of seeking a second appellate review which is impermissible in a writ of this nature.

11. Consequently, the petition being devoid of merit, deserves to be dismissed and is accordingly dismissed. No order as to costs.

12. The writ petition, accordingly, stands dismissed. No costs.

(AMIT BORKAR, J.)