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

WRIT PETITION NO. 7358 OF 2009

Pundalik Shamrao Raut & Ors.

.. Petitioners

Versus

Madhav Yeshwantrao Salunkhe & Ors.

.. Respondents

Mr. Rushabh D. Phade h/f Saakshat Relekar for petitioners.

Mr. Siddharth A. Mehta a/w Harshada Shrikhande and Vaibhav
for respondents.

CORAM: ALOK ARADHE, CJ.

DATE: 21st JULY, 2025

ORAL ORDER:

1. In this writ petition filed under Article 227 of the Constitution of India, the petitioners have assailed the validity of the order dated 18th June, 2009, by which the application for framing the additional issue filed by the petitioners/defendants has been partly allowed.

2. Facts giving rise to filing of the present petition, in nutshell, are that respondents/plaintiffs had filed Regular Civil Suit No. 431 of 2005 seeking the relief of possession of the suit property. On the basis of the pleadings of the parties, the trial court framed the issues. Thereafter, the petitioners had filed an application for framing additional issues. The aforesaid application was partly allowed vide order dated 18th June, 2009 passed by the trial court. The trial court refused to frame issue as to whether the provisions of the Maharashtra Tenancy and Agricultural Lands Act, 1948

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(hereinafter referred to as "the Act of 1948") would apply to the suit property. The trial court declined to frame the said issue. Hence, this petition.

3. Learned counsel for the petitioners submitted that the trial court ought to have appreciated that the aforesaid issue was necessary for a fair and complete adjudication of the controversy involved in the suit. The learned counsel for the respondents has supported the order passed by the trial court.

4. I have heard the learned counsel for the parties and perused the record.

5. From the perusal of the written statement filed on behalf of the petitioners, it is evident that the petitioners have taken a stand that the suit property is a residential property. Therefore, provisions of the Act of 1948 do not apply to the residential property. The trial court by assigning valid and cogent reasons has declined to frame the issue as to whether the provisions of the Act of 1948 would apply to the suit property. The impugned order passed by the trial court neither suffers from jurisdictional infirmity nor error apparent on the face of the record warranting interference under the supervisory jurisdiction of this Court.

6. In the result, I do not find any merit in the petition. The same fails and is hereby dismissed.

7. Let a copy of this order be sent to the trial court.

(CHIEF JUSTICE)