

Ashish

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

WRIT PETITION NO.8199 OF 2019

Shri. Sarjerao Bapu Gharal ... Petitioner
V/s.
Shri. Rangnath Narayan Nale And Ors ... Respondent

Mr. Anand Patil a/w Mr. Soham Pawar i/b Anand Patil
& Associates for Petitioner.

Mr. Vinod P Sangvikar, a/w Mr. Yogesh Morbale for
Respondent Nos.1 to 3.

CORAM : AMIT BORKAR, J.

DATED : MARCH 26, 2025

P.C.:

1. The petitioner has approached this Court invoking writ jurisdiction under Article 227 of the Constitution of India, challenging the legality and propriety of the orders passed by the Appellate Authority and the Maharashtra Revenue Tribunal (MRT), in proceedings arising under the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as "the said Act"). The genesis of the litigation lies in proceedings instituted under Section 43-A of the said Act, wherein the competent authority—the Tenancy Authority—was pleased to hold the petitioner as a tenant in respect of the property in dispute. This adjudication was carried in appeal by respondent nos.1 to 4 by filing Tenancy Appeal No.16 of 2006 before the Sub-Divisional Officer, Kolhapur.

2. The Sub-Divisional Officer, while deciding the appeal, recorded a finding that the land in question was owned by respondent no.5, who is admittedly the original landlady. However, the said appellate authority proceeded to interfere with the findings of the Tenancy Authority, without examining or even advertent to the locus standi of respondent nos.1 to 4. Significantly, no finding was recorded as to how respondent nos.1 to 4 could be treated as "aggrieved persons" entitled to invoke the appellate jurisdiction under the said Act, particularly when they were undisputedly not parties to the original proceedings before the Tenancy Authority. This fundamental aspect went unaddressed. The MRT, while exercising its revisional jurisdiction, also affirmed the order passed by the Sub-Divisional Officer, without applying its mind to the question of maintainability of the appeal at the instance of respondent nos.1 to 4, thereby committing an error apparent on the face of record.

3. It is not in dispute that respondent nos.1 to 4 were neither parties to the original proceedings instituted under Section 43-A of the said Act, nor have they established any independent legal right, title, or interest in the land in question. In the absence of any demonstrable or pleaded infringement of their legal or statutory rights, the mere act of filing an appeal against the order passed by the Tenancy Authority does not ipso facto vest respondent nos.1 to 4 with locus standi to maintain such an appeal. The scheme of the Bombay Tenancy and Agricultural Lands Act contemplates that only a person aggrieved by an order passed by the competent authority, who is directly or substantially affected by such

adjudication, is entitled to invoke the appellate jurisdiction.

4. The burden, therefore, squarely rested on respondent nos.1 to 4 to demonstrate before the Appellate Authority as to how the findings rendered by the Tenancy Authority caused prejudice to any legal interest or right they were entitled to assert. In the absence of such a foundational pleading or any adjudicated finding to that effect, the Appellate Authority could not have exercised jurisdiction under the said Act at the behest of respondent nos.1 to 4. The MRT, while exercising revisional powers, was also required to scrutinise this jurisdictional error, but failed to do so. This vitiates the orders passed by both authorities. Consequently, the impugned orders suffer from a jurisdictional infirmity and are liable to be quashed and set aside.

5. In the light of the above discussion, Tenancy Appeal No.16 of 2006 is restored to the file of the Sub-Divisional Officer, Kolhapur. The Sub-Divisional Officer shall, at the threshold, adjudicate the issue of maintainability of the appeal in light of the observations made hereinabove. In the event it is found that respondent nos.1 to 4 have established requisite locus standi to maintain the appeal, the Sub-Divisional Officer shall thereafter proceed to decide the appeal on its own merits, in accordance with law, after granting due opportunity of hearing to all concerned parties.

6. The parties shall appear before the Sub-Divisional Officer, Kolhapur on 7th April 2025 at 10:30 a.m. The Sub-Divisional Officer shall make an endeavour to decide the matter, in accordance with law, preferably within a period of six months from

the date of first appearance of the parties.

7. The writ petition stands disposed of in the above terms. No order as to costs.

(AMIT BORKAR, J.)