

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.17399 OF 2024

Waman Devrao Jagtap Since Dec Thr Legal Heirs
and Ors.

.. Petitioners

Versus

Shatawari Chandrakant Vaidya and Anr.

.. Respondents

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- Mr. Kailas Dewal a/w Mr. Sham Thakur, and Mr. Yash Dewal i/by Hrishikesh Shinde, Advocates for Petitioners.
 - Mr. R.S. Alange, Advocate for Respondent Nos.1 and 2.
 - Ms. P.B. Chavan, AGP for Respondent – State.
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CORAM : MILIND N. JADHAV, J.

DATE : JULY 15, 2025

P. C.:

1. Heard Mr. Dewal, learned Advocate for Petitioners; Mr. Alange, learned Advocate for Respondent Nos.1 and 2 and Ms. Chavan, learned AGP for Respondent – State.

2. Dispute between the parties emanates from proceedings under the Maharashtra Tenancy and Agricultural Lands Act, 1948. It is noticed that Petitioners filed proceedings under Section 32G seeking declaration for deemed purchaser on 19.05.2017 which was allowed by the Agricultural Lands Tribunal (for short '**ALT**') and Tahsildar in their favour. Before the Petitioners could obtain 32M Sale Certificate and pay purchase price under 32G order the Respondent being aggrieved filed a statutory appeal before the Sub Divisional Officer

(for short '**SDO**'). Respondents claim to be successors in title of the landlord / original owner / holder of the subject land / property. Petitioners before me are successors in title and legal heirs of the original tenant in respect of subject land / lands. Order of the SDO has been confirmed by the Maharashtra Revenue Tribunal (for short '**MRT**') in Revision pursuant to which present Petition has been filed in this Court against the twin orders affecting substantive rights of Petitioners.

3. At the outset, after hearing Mr. Dewal who in his usual fairness would inform the Court that one of the reasons which prompted the SDO to reverse the order of ALT and 32G order was based upon a mutation entry which was in favour of Respondents' predecessor in title and certain other proceedings which had travelled right upto the MRT which had considered a possession receipt of the subject land in their favour.

4. Be that as it may, *prima facie* on reading the twin orders passed by the SDO and MRT and after hearing the learned Advocates, I am of the confirmed opinion that there are several disputed questions of facts which need to be resolved between the parties. First and foremost disputed question of fact is with respect to possession. Petitioners before me claim to be in physical possession of the subject land / property whereas Respondents before me claim to be in legal

and juridical possession on the basis of the possession receipt. The effect of the possession of the subject land / property will undoubtedly have to be determined in an appropriate proceeding since it is a *prima facie* disputed question of fact.

4.1. In extraordinary jurisdiction, without the parties invoking the ordinary original jurisdiction of Civil Court it would be improper for the Court to give its imprimatur on the basis of documentary evidence placed on record before the Court and on reading the orders passed by the statutory Officers in RTS proceedings and MTAL proceedings. A major part of the documentary evidence which has been shown to the Court by Mr. Dewal is in the form of statutory orders passed by quasi-judicial Officers / Authorities under the provisions of Maharashtra Tenancy and Agricultural Lands Act, 1948 as also under the Maharashtra Land Revenue Code, *inter alia*, pertaining to mutation entries. The effect of those orders as also the orders and documents which have been relied upon by Mr. Alange will have to be proved and determined in accordance with law in appropriate proceedings considering that both parties before me claim to be in possession of the subject land / property.

4.2. I have impressed upon Petitioners to file an appropriate Civil Suit alongwith Application seeking temporary injunction below Exhibit-5 in the appropriate Civil Court having Civil original

jurisdiction. If such suit and Application below Exhibit-5 is filed, the Court will undoubtedly pass appropriate directions for its determination considering the timeline in the present case on all issues in accordance with law. Mr. Dewal after taking instructions would inform the Court that substantive right of petitioners should not be digressed or trampled with by virtue of the present order. This order does not determine the rights of Petitioners or Respondents before me. All that this Court states is that disputed questions of fact will have to be decided by the Civil Court especially when the said disputed questions relate to entitlement and title and the dispute relating to property coupled with possession. Such is the present case before me. According to Petitioners they claim to be in occupation and in cultivation of the said land since tillers' day and therefore they approaching under 32G in the year 2017 is required to be considered. Limitation is one facet argued by Mr. Alange. The veracity of Petitioners possession in respect of land / property based upon documentary evidence proved by the Petitioners shall have to be considered by the Court since Mr. Alange disputes it.

5. In view of the above, Mr. Dewal submits that Petitioners shall file a Civil Suit within a period of eight weeks from today alongwith Application below Exhibit-5 for all substantial reliefs in respect of the subject land. If the Petitioners file the Civil Suit in the

Civil Court, the said Civil Court seized of the suit proceedings is directed by this Court to decide the Application below Exhibit-5 as expeditiously as possible and in any event within a period of six weeks from the date of filing of the said Civil Suit.

6. All contentions of Petitioners and Respondents which shall be parties in the Civil Suit are expressly kept open without the Civil Court being influenced by any of the observations made in this order.

7. Needless to state that the orders passed by the statutory Officers / Authorities will be deciphered on their own merits by the Civil Court at the time of hearing of the injunction Application below Exhibit-5 by the Civil Court.

8. Keeping all contentions of both the parties open, both parties are directed to maintain *status quo* in respect of the subject land / property as it is as on today until the Exhibit-5 Application is heard and decided by the Civil Court.

9. Liberty to the Petitioners to revive their statutory rights pursuant to determination of their substantive right of entitlement in the Civil Suit proceedings is kept open. Equally Respondent's right in the statutory proceedings is also kept open.

10. With the above directions, without giving any imprimatur on the orders passed by the ALT, SDO as also the MRT in the present case and keeping all contentions of both the parties open the Writ Petition is disposed of in the above terms.

[MILIND N. JADHAV, J.]