

VRJ

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

WRIT PETITION NO.2168 OF 2023

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Mahadev Vithoba Dalvi

... Petitioner

V/s.

Balkrishna Dnyandeo Dalvi & Ors.

... Respondents

Mr. Kishor Patil i/by Mr. Arjun S. Pawar for the
petitioner.

Mr. B. A. Lawate for respondent No.1.

Mr. S. D. Rayrikar, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 11, 2025

P.C.:

- 1. Rule.** Rule is made returnable forthwith.
- 2.** The instant writ petition is filed under Article 226 of the Constitution of India, challenging the impugned order passed by the Maharashtra Revenue Tribunal (MRT) in Revision Application No. NS/XI/3/2018. The order in question arises out of proceedings conducted under Section 32G of the Bombay Tenancy and Agricultural Lands Act, 1948.
- 3.** For the purpose of adjudication, it is essential to record that the deceased Vithu Rama Dalvi (Teli) was the tenant of Survey Nos. 85/1 and 85/2, situated at Banwadi (Arabwadi), Taluka Koregaon, District Satara. Upon his demise, he was survived by

two sons, namely Namdeo and Mahadev. The petitioner, being the son of Dnyandeo (brother of Vithu), and respondent No.2, who claims kinship as a cousin of the petitioner, now contest the rightful status and extent of heirship.

4. In the year 1964, Namdeo applied for the fixation of the purchase price in respect of Survey No. 85/2 under Section 32G of the Act. The statutory procedure was duly followed, resulting in the fixation of the purchase price and the subsequent issuance of a Section 32M certificate in Namdeo's name, acknowledging him as a legal heir of Vithu Rama Dalvi (Teli).

5. In 1994, Namdeo, together with the petitioner, filed an application for the fixation of the purchase price in respect of Survey No. 85/1. The Tahsildar, after conducting a comprehensive inquiry in accordance with the prescribed statutory guidelines, fixed the purchase price of the land. In doing so, the inquiry recognized the petitioner and respondent No.1 as legal heirs of the deceased Vithu Rama Dalvi. Consequently, respondent No.1 effected the payment of his respective share and was duly issued a certificate under Section 32M of the Act.

6. The petitioner challenges the order passed by the Agricultural Lands Tribunal (ALT), which fixed the purchase price by treating respondent No.1 as a tenant to the extent of a half share, rather than acknowledging his status as a legal heir. While the Sub-Divisional Officer (SDO) subsequently condoned the delay in filing an appeal against this order—a delay against which respondent No.1 has not raised any objection—the petitioner

contends that the substantive error in classifying respondent No.1's status remains uncorrected. On 29 August 2018, the SDO, having condoned the delay, dismissed the petitioner's appeal; a decision that was later confirmed by the MRT.

7. The MRT, after a meticulous examination of the relevant records—including Mutation Entry No. 532—confirmed the orders passed by both the ALT and the SDO. The Tribunal held that the mutation entry conclusively recorded respondent No.1 as a legal heir of the deceased Vithu Rama Dalvi (Teli), thereby validating the acceptance of respondent No.1's claim. It is respectfully submitted that the MRT's reliance on the mutation entry, coupled with the consistent application of the statutory provisions, reinforces the correctness of the decisions rendered by the lower authorities.

8. On perusal of the record, it is undisputed that Vithu Rama Dalvi (Teli) was the protected tenant on tiller's day, and that he is survived by two sons, namely, Namdeo and Mahadev (the petitioner). It is equally uncontested that respondent No.1 is a cousin of the petitioner. In light of the established principles governing inheritance, it is clear that petitioner Mahadev and Namdeo, being Class-I heirs of Vithu Rama Dalvi (Teli), are entitled to be recognized as the rightful heirs. Mere inclusion of the name of respondent No.1 as an heir in proceedings under the Maharashtra Land Revenue Code, 1966, does not, ipso facto, confer upon him the status of an heir unless he can conclusively demonstrate his standing as a Class-I heir or, alternatively, as a Class-II heir in the absence of any Class-I heirs.

9. Furthermore, it is well settled that administrative entries or admissions in revenue records cannot substitute for a legal determination of heirship. The so-called admission relied upon by the authorities under the Act is contrary to the express provisions of Section 40 and is inconsistent with the statutory framework of the Hindu Succession Act, 1956. The legal principle here is that substantive rights over property arising by inheritance must be established by clear and cogent evidence of rightful succession, and a mere administrative entry, without corroborative evidence, is insufficient to confer such rights. In this context, it is imperative to emphasize that the determination of inheritance is subject to rigorous scrutiny, and any deviation from the statutory scheme designed to identify Class-I and Class-II heirs must be rectified to prevent the unjust enrichment of any party.

10. In view of the foregoing, the impugned judgment and orders passed by the MRT and the SDO—which confirmed the ALT’s erroneous order granting joint ownership in favor of respondent No.1—cannot stand. The failure to adequately establish respondent No.1’s claim as either a Class-I or a Class-II heir renders the revenue entry of his name in the revenue records insufficient to override the substantive rights of the petitioner and Namdeo.

11. In view of the comprehensive analysis herein and the incontrovertible evidence establishing the rightful heirship of petitioner Mahadev and Namdeo, it is hereby ordered that the impugned judgment and orders be quashed and set aside.

12. Accordingly, in terms of prayer clause (c) of the writ petition, the rule is made absolute.

(AMIT BORKAR, J.)