

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1815 OF 2025**

Jitendra Rajaram Pawar & Ors

..Petitioners

Versus

Ratnabai Dadaso Pawar Through Her PoA

...Respondents

Subhash Dadasaheb Pawar & Anr

Mr. Mahindra Deshmukh, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED : 11th FEBRUARY 2025

P.C.:

- 1.** Heard learned Counsel for the Petitioners.
- 2.** The challenge in this Petition is to an Order dated 5th October 2023 passed by the learned Civil Judge, Kavathe-Mahankal, District Sangli, whereby the Application preferred by the Petitioners- Defendant No.1 to refer the issue of tenancy to the Agricultural Lands Tribunal (“ALT”) under the Maharashtra Tenancy And Agricultural Lands Act 1948 (“ MT & AL Act”), came to be rejected.
- 3.** The learned Civil Judge was persuaded to reject the Application observing *inter alia* that Defendant No.1 has earlier preferred an Application for framing an additional issue (Exhibit “25”) which came

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to be rejected by an Order dated 12th July 2023 and even otherwise the reference of the question to the ALT was not warranted.

4. Mr. Deshmukh, learned Counsel for the Petitioners, submitted that in the Plaint itself the Plaintiffs have asserted that the very mortgage by conditional sale was in breach of Section 43 of the MT & AL Act and, therefore, the issue was required to be referred to the ALT under the MT & AL Act.

5. I am unable to persuade myself to agree with the submissions of Mr. Deshmukh.

6. The suit has been instituted for redemption of mortgage executed under a Deed of Mortgage by condonation Sale Deed dated 16th August 1991. The assertion on the part of the Plaintiff that the said mortgage was affected by the provisions contained in Section 43 of the MT & AL Act is in the context of the transaction of mortgage.

7. The issues which are exclusively determinable by authorities under the MT & AL Act do not arise for determination in the instant Suit, which is for redemption of the mortgage simplicitor.

8. The learned Civil Judge, thus, committed no error in rejecting the said Application.

9. The Petition stands dismissed.

[N. J. JAMADAR, J.]