

Ajay

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

**WRIT PETITION NO. 9744 OF 2024**

Sadhana Krishnakumar Pande

.. Petitioner

**Versus**

Ramesh Ganesh Rakhe and Ors.

.. Respondents

- .....
- Mr. V.P. Shastri, Advocate for Petitioner.
  - Mr. Manish N. Bijutkar, Advocate for Respondents.
- .....

**CORAM : MILIND N. JADHAV, J.**

**DATE : SEPTEMBER 02, 2025.**

**P.C.:**

**1.** Heard Mr. Shastri, learned Advocate for Petitioner and Mr. Bijutkar, learned for Respondents.

**2.** Dispute in the present case emanates from substantive right claimed by Petitioner in the subject land derivated from her father. Name of Petitioner is Sadhana Krishnakumar Pande. Name of her father is Krishnakumar Madhusudan Pande. Admittedly grandfather of Petitioner one Mr. Udit Narayan Pande was the occupant and cultivator of the subject land. The land is situated in Palghar. There are revenue entries which are placed on record and brought to my notice by Mr. Shastri which show that the land was being cultivated with vegetables (भाजीपाला), banana (केली) and hay (पड).

**3.** Mr. Shastri would contend that pursuant to demise of grandfather of Petitioner by virtue of succession Petitioner is entitled to the subject land and therefore in 2015 Petitioner filed proceedings under Section 32G of the Maharashtra Tenancy and Agricultural Lands Act, 1948 (for short '**the said Act**'). It is seen that Application under Section 32G filed by Petitioner was dismissed by Tahsildar on 23.02.2017, but Appeal was allowed by the Sub-Divisional Officer (for short '**SDO**') on 28.03.2018.

**4.** Respondents being aggrieved approached the Maharashtra Revenue Tribunal (for short '**MRT**') which by order dated 11.03.2020 remanded the matter for a fresh hearing to the Tahsildar. It is seen that simultaneously Tahsildar has passed order dated 30.08.2018. Copy of which is not appended to the Petition. That order was challenged before the SDO by Petitioner. The challenge was dismissed by order dated 04.02.2019 by the SDO resultantly leading to filing of the present Writ Petition. It is seen that both these proceedings were filed by Petitioner albeit against different land owners however belonging to the same family namely the Rakhe family (descendants of the original landlord)

**5.** Mr. Shastri has drawn my attention to entitlement of Petitioner as legal heir of late Krishnakumar Madhusudan Pande on the basis of a legal heirship certificate which has been taken

cognizance of by the Revenue Authorities for inserting her name in respect of the subject land in the year 2015. That revenue entry is appended at page No.100 of the Petition.

**6.** He would submit that in that view of the matter, Petitioner be considered as legal heir and the impugned order passed by MRT be dislodged by this Court. After going through the case proceedings and the spate of orders in two parallel proceedings filed by Petitioner against family members and descendants of the original landlord, it is *prima facie* seen that several disputed questions of facts arise in the present case. Firstly, it is seen that name of Petitioner stood deleted in respect of the subject property in previous RTS proceedings by order dated 24.03.1986. Mutation Entry No.20466 to that effect which is appended at page No.99 records the same.

**7.** However, it is Mr. Shastri's contention that since the said deletion occurred without knowledge of Petitioner, in the 2015 Petitioner obtained legal heirship certificate from the District Magistrate, Varanasi dated 06.05.2015 and submitted the same to the Revenue Authorities which took cognizance of the same and passed Mutation Entry No.30189 dated 29.06.2015 afresh and inserted the name of Petitioner as legal heir of Krishnakumar Pande. Further questions arises is whether the legal heirship certificate obtained in 2015 will confer title of the subject property / land on the Petitioner.

It is seen that occupant / cultivator of the subject land was the grandfather of Petitioner. Today, Petitioner before me claims to be the sole legal heir and being entitled to the subject land. However family tree of the grandfather and father of the Petitioner is not produced before the Court. It is *prima facie* borne out from the record that Petitioner's grandfather had three sons.

**8.** Be that as it may, the Court while dealing with such a question of entitlement which is *prima facie* based on convoluted facts, cannot give its imprimatur and decide the disputed questions of facts. That apart, when substantive right is invoked by any litigant, the same must be based on substantive material evidence. In the present case, all that is appended to the present Writ Petition are 5 copies of the orders passed by the *quashi judicial* Authorities in RTS proceedings post 2015 and revenue records. *Prima facie* perusal of the revenue records appended does not inspire any confidence of the Court since the said revenue records on the face of record appear to be handwritten and rewritten and therefore they will have to be adequately proved by Petitioner on the basis of cogent evidence in appropriate proceedings.

**9.** In view of my above observations, findings and disputed question of facts especially relating to sole right, title and entitlement claimed by Petitioner in the subject land, this Court can not decide entitlement of Petitioner on the basis of the pleadings and limited

material placed before the Court. The correct course of action for Petitioner would to establish her title would be to approach the Civil Court by filing an appropriate Civil Suit in the Civil Court having Original Civil Jurisdiction which would be the District Court at Palghar where the subject land is situated. Present Petition will have to be dismissed, however giving liberty to Petitioner to file Civil Suit, if so desired in accordance with law.

**10.** Needless to state that the Civil Court shall not be influenced by any of the observations and findings recorded in the five orders which are appended to the Petition neither this order and in the event if Petitioner files the Civil Suit or any Application below Exhibit "5" seeking temporary injunction, the same shall be decided by the Civil Court strictly on its own merits and in accordance with law without being influenced by any of the observations and findings in the present order.

**11.** Mr. Shastri would submit that eight weeks time be granted to Petitioner to approach the Civil Court and obtain appropriate orders. Request made by Advocate for Petitioner *prima facie* is granted and Petitioner is permitted to approach the Civil Court and file appropriate proceedings as available to her in law and obtain appropriate orders.

**12.** In the meantime, for a period of eight weeks the impugned order shall stand stayed.

**13.** It is clarified that this Court has not commented on any of the substantive rights of the parties and it shall be the imprimatur of the Civil Court in the event if the parties approach the Civil Court to decide the same in accordance with law.

**14.** With the above directions, Writ Petition is dismissed and disposed.

[ MILIND N. JADHAV, J. ]

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