

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

WRIT PETITION NO.392 OF 2025

Vaishali Shubhas Hillar & Ors.

....Petitioners

V/S

Chandrakant @ Chanda Eknath

Gangatire & Ors.

....Respondents

Mr. Viraj Hake *for the Petitioners.*

Mr. Abhijit P. Kulkarni a/w Mr. Abhishek Roy, Mr. Krushna Jaybhay, Mr. Shreyas Zarkar *for Respondent Nos.1 to 3.*

Ms. K.N. Solunke, AGP *for Respondent Nos.4 to 6 / State.*

CORAM: SANDEEP V. MARNE, J.

DATE : 13 JANUARY 2025.

P.C.:

1. It must be observed at the very outset that Petitioners' Petition is a gross abuse of process of law. Petition challenges order dated 28 October 2024 passed by Maharashtra Revenue Tribunal, Pune, allowing the Revision Application preferred by Respondent Nos.1 to 3 and issuing a declaration that Respondent No.2 is an Agriculturist under provisions of section 70(a) of the Maharashtra Tenancy and Agricultural Lands Act, 1948 (**the Act**).

2. It appears that Petitioners were the original owners in respect of the land in question. They executed a registered power of attorney in favour of Respondent No.1 who happens to be the cousin of Petitioner Nos.1 to 3 and nephew of Respondent No.4. On the strength of such registered power of attorney, Respondent No.1 executed sale deed in respect of the land in question in favour of his wife i.e. Respondent No.2 on 15 January 2004 and on payment of consideration of Rs.3,00,000/- to the Petitioners. It appears that since the land in question was allotted by the Government in favour of husband of Petitioner No.4 and father of Petitioner Nos.1 to 3 (Pandurang Gangatire) for cultivation as ex-defence personnel, permission of the Government was sought and was granted for execution of the sale deed on payment of the necessary royalty amount.

3. Five years after execution of the sale deed Petitioners began their litigation journey to challenge the transaction of sale executed in favour of Respondent No.2 on the strength of power of attorney executed by them in favour of Respondent No.1. They initially filed an application before Divisional Commissioner seeking cancellation of permission for sale of the land on the ground that Respondent No.2 was not an agriculturist as on the date of execution of sale deed in her favour. The Divisional Commissioner passed order dated 21 July 2010 and cancelled the said permission directing mutation of the land in question in the name of the Government.

4. It appears that simultaneously Petitioners also instituted Regular Civil Suit No.492 of 2011 for seeking possession of the land in question in the Court of Civil Judge Senior Division, Satara.

5. In Appeal preferred by Respondent Nos.1 to 3 before learned Minister (Revenue) the order of the Divisional Commissioner was set aside and the proceedings were remanded before Tahasildar, Phaltan for conduct of enquiry under provisions of section 70(a) of the Act. In such an enquiry conducted under provisions of section 70(a) of the Act, Petitioners succeeded before Tahasildar and the Sub Divisional Officer. Aggrieved by the orders passed by the Tahasildar and Sub Divisional Officer holding that Respondent No.2 was not an agriculturist at the time of execution of the sale deed, Respondent Nos.1 to 3 filed Revision before the Maharashtra Revenue Tribunal which has been allowed by the impugned order dated 28 October 2024.

6. There are two reasons why this Court is not inclined to entertain the present Petition which challenges the Tribunal's order dated 28 October 2024. Firstly, on merits, the Tribunal has considered the position that the mother of Respondent No.1 secured a share in the agricultural land and accordingly Respondent No.1-Chandrakant acquired status as an agriculturist and accordingly his wife (Respondent No.2) was

also an agriculturist at the time of execution of the sale deed. There is no perversity in this finding of fact.

7. Secondly, Petitioners have already given up all their claims regarding ownership and possession of the land. Petitioners withdrew Regular Civil Suit No.492 of 2011, which was filed by them for recovery of possession of the land on 12 February 2018. Thus as of now there is no challenge by the Petitioners to the sale deed dated 15 January 2004 nor any proceedings are pending before Civil Court for seeking possession of land in question from Respondent Nos.1 to 3. The learned counsel for the Petitioners would attempt to salvage the situation by contending that Regular Civil Suit No.492 of 2011 was withdrawn because the Petitioners had actually secured possession of the land from Revenue Authorities. This position appears to be contrary to the order of temporary injunction granted by Civil Judge Junior Division in Regular Civil Suit No.102 of 2016 instituted by Respondent Nos.1 to 3. In Regular Civil Suit No.102 of 2016 Civil Judge Junior Division allowed the application for temporary injunction and restrained the Petitioners from interfering with possession of Respondent Nos.1 to 3 by order dated 11 August 2016. The order of temporary injunction dated 11 August 2016 was unsuccessfully tested by Petitioners by filing Miscellaneous Civil Appeal No.137 of 2016 which came to be dismissed by the District Judge on 19 July 2017. Thus as on 12 February 2018 when an application for withdrawal of Regular Civil Suit No.492 of 2011 was made, Petitioners were already

under injunction not to disturb possession of Respondent Nos.1 to 3. Therefore it cannot be accepted that Petitioners had secured possession of the land from the Revenue Authorities and therefore withdrew Regular Civil Suit No.492 of 2011 on 12 February 2018.

8. The position that obtains now is that Petitioners are not prosecuting any proceedings challenging the sale deed dated 15 January 2004. They have given up their claim for seeking possession of the land by withdrawal of Regular Civil Suit No.492 of 2011. It therefore becomes quite incomprehensible as to why Petitioners are prosecuting the present Petition for the purpose of highlighting the technical flaw of Respondent No.2 not being an agriculturist. When Petitioners themselves do not claim any right in respect of land in question, which is quite perplexing as to the real intention on their part to seek a declaration from revenue authorities that Respondent No.2 was not an agriculturist as on the date of execution of the sale deed and that therefore the land must be revealed to the Government. This round of litigation appears to be aimed at creating hurdles in lawful ownership and possession of the land by Respondent No.2, who has purchased the same from Petitioners after payment of valuable consideration. This Court cannot be a party to mischievous designs of Petitioners in extorting additional amounts from lawful purchaser of the land by engaging her in endless litigation.

9. In my view therefore, filing of the present Petition is a gross abuse of process of law on the part of the Petitioners. Writ Petition is accordingly **rejected**.

(SANDEEP V. MARNE, J.)

SUDARSHAN
RAJALINGAM
KATKAM

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