

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

WRIT PETITION NO. 9197 OF 2024

Bilkish Khatun Alam Shaikh And Ors.

Thorough POA Bilkish Shaikh

... Petitioners

Versus

State of Maharashtra Through

Govt Pleader And Ors.

... Respondents

Mr. Kunal Bhanage *a/w Mr. Akshay Pawar, Ms. Priyanka Acharya for the Petitioners.*

Ms. A. A. Nadkarni, *AGP for Respondent-State.*

Mr. Aniket Ranade *for Respondent Nos. 4 to 6.*

CORAM : SANDEEP V. MARNE, J.

DATE : 07 MAY 2025.

P.C. :

1) The Petition challenges judgment and order dated 30 April 2024 passed by Maharashtra Revenue Tribunal allowing the Revision preferred by Respondent Nos. 4 to 6 and setting aside the orders passed by Sub Divisional Officer dated 20 July 2022 and Tahsildar and Agricultural Lands Tribunal, Borivali dated 19 March 2021.

2) I have heard Mr. Bhanage, the learned counsel appearing for Petitioners and Mr. Ranade, the learned counsel

appearing for Respondent Nos. 4 to 6 and Ms. Nadkarni, the learned AGP appearing for Respondent-State. I have gone through the findings recorded by the Tahsildar and Agricultural Lands Tribunal, Borivali (**ALT**), Sub Divisional Officer, Mumbai Sub Urban District (**SDO**) as well as by the Maharashtra Revenue Tribunal (**MRT**). I have also considered various documents produced on record alongwith the Petition.

3) Perusal of the order passed by ALT on 19 March 2021 would indicate that he has upheld the tenancy claim of the Petitioners merely on the basis of *Panchanama* shown to have been conducted on 20 November 2020. Except the *Panchanama* there is no other contemporaneous evidence on record to indicate personal cultivation of the land by the Petitioners or by their forefathers as on the Tiller's day of 1 April 1957. If indeed Petitioners or their forefathers were personally cultivating the land as alleged, there would have been atleast a single entry in the cultivation column in respect of the land in question. Under the provisions of relevant rules, the entries in cultivation register are required to be made by Talathi after personally visiting the land. The entries in the cultivation column are in '*Khudd with Rit 1*'. This means that the landlord was personally cultivating the land right since the inception. What make the case of the Petitioners worse is that name of another person Jefu Betu Farel was apparently entered in the revenue records as tenant by Mutation Entry No. 1078 certified on 26 June 1957. Name of said Jefu Betu Farel was deleted observing that his name was erroneously reflected in the revenue records as tenant when in fact the land was being personally cultivated by the landlord Liyan Francis Soz. Petitioners or their forefather was never objected Mutation Entry No. 1078. They never claimed that upon

deletion of name of Jefu Betu Farel, their name ought to have been mutated as ordinary tenant or protected tenant in the revenue records. There is not even a single revenue entry of Petitioners or their forefathers being tenant in respect of the land in question. There is total absence of evidence to show personal cultivation of the land on 1 April 1957. No other evidence in the form of rent agreement or rent receipts are filed on record. *Panchanama* prepared on 20 November 2020 cannot prove personal cultivation of the land by the Petitioners as on the Tiller's day. The *Panchnama* is based on bald statement of the Petitioners that they have been cultivating the land for 70-80 years, in absence of any documentary evidence to that effect.

4) In my view, therefore, the ALT had grossly erred in upholding the tenancy claim of the Petitioners. The SDO had committed error in not correcting the order passed by the ALT. The MRT has rightly stepped in by setting aside erroneous orders passed by ALT and SDO. No interference is therefore warranted in the impugned order passed by the MRT. The Petition is devoid on merits and it is accordingly **rejected**.

5) After the order is pronounced, Mr. Pawar would pray for continuation of the interim order passed by this Court on 2 July 2024. By that order, operation of order dated 30 April 2024 passed by MRT has been stayed. The request is opposed by Mr. Ranade. The interim order dated 2 July 2024 shall continue to operate for period of four weeks.

[SANDEEP V. MARNE, J.]