

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

WRIT PETITION NO. 10573 OF 2024

Janardhan Ganpati Masugade And Ors

... Petitioners

Versus

Shantabai Sadashiv Phadtare And Ors

... Respondents

Mr. Nikhil Wadikar *a/w Ms. Shweta R. Pandey for the Petitioners.*

Mr. Rushikesh C. Barge *for the Respondents.*

CORAM : SANDEEP V. MARNE, J.

DATE : 1 APRIL 2025.

P.C. :

1) The Petition challenges order dated 21 September 2023 passed by President Maharashtra Revenue Tribunal, Pune allowing Revision Application filed by the contesting Respondents and setting aside orders dated 29 September 2017 passed by Sub Divisional Officer and 5 July 2016 passed by Tahsildar. By order dated 5 July 2016 Tahsildar had declared Petitioners to be tenant in respect of the land in question under provisions of Section 70(b) of the Maharashtra Tenancy and Agricultural Lands Act, 1948.

2) I have heard Mr. Wadikar, the learned counsel appearing for Petitioners and Mr. Badge, the learned counsel appearing for contesting Respondents. I have gone through the

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orders passed by the Tribunal, SDO and Tahsildar. I have also considered the records of the case filed alongwith the Petition.

3) Petitioners filed application dated 11 December 2009 before Tahsildar contending that their father was cultivating the land in question since the year 1964-1965. They accordingly sought declaration of their status as tenant under provisions of Section 70(b) of the Tenancy Act. What must be noted at the very outset is that no attempt was made by the Petitioners to claim protection under Section 32 of the Tenancy Act by claiming tenancy as on the tillers day of 1 April 1957. The simple case of the Petitioners was that they be declared as tenant since the year 1964-1965 so that possession of the land cannot be lost without valid termination of tenancy. However Petitioners were unable to produce any documentary evidence in the form of rent note/ agreement or rent receipts. Mr. Wadikar would contend that declaration of tenancy can be made in absence of documentary proof of rent receipts if there is other evidence of personal cultivation of land.

4) Petitioners strenuously rely on the entries in the name of their father and brother in cultivation column under 'रि३' in support of their contention that the land was being cultivated personally by their father/brother and rent was being paid to the landlords. However it appears that the landlords filed proceedings before Tahsildar for deletion of name of Petitioners' brother-Baba Ganpati Masgude from cultivation column on the ground that he was not actually cultivating land. In those proceedings, Petitioners' brother-Baba gave statement on 4 November 2009 that he was never cultivating the land. Based on the statement made by the Petitioners' brother, Tahsildar passed order dated 2 February 2010

directing deletion of name of Petitioners' brother from cultivation column of the land in question. Petitioners never challenged Tahsildar's order dated 2 February 2010, which attained finality. Tahsildar's order was given effect to by certification of Mutation Entry No. 2764 on 10 February 2010, which again was never questioned. Thus after 2 February 2010, there is neither any revenue entry nor any documentary evidence in support of claim of the Petitioners of existence of landlord tenant relationship. In that view of the matter, the Tahsildar had committed gross error in declaring Petitioners as tenants in respect of the land. The MRT has rightly corrected the error committed by Tahsildar and SDO by allowing the Revision preferred by the contesting Respondents. No case is made out for interference in the order passed by the MRT. Petition is accordingly **rejected**.

[SANDEEP V. MARNE, J.]