

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.16978 OF 2024

Chandrabai Baliram Bhoir and anr. ... Petitioners
V/s.
Maharashtra Revenue Tribunal and ors. ... Respondents

Mr. Mohd. Nawaz Haindaday with Mr. Aslam A.A. Shaikh Mohd. Shahid Hussain, Mr. Moziz Muzakki Khot and Ms. Gazala Paween Shaikh i/by Judicare Law Associates, Advocates for the Petitioners.

Ms. Snehal Jadhav, AGP for the Respondent/State.

Mr. Sunil Karandikar with Mr. Murari Madekar and Mr. Sachin Kudalkar i/by M/s Madekar & Co., Advocates for the Respondents No.6 to 11.

CORAM : SANDEEP V. MARNE, J.

Dated : 04 February, 2025.

P.C. :

1. The Petition challenges judgment and order dated 19th March, 2024 passed by Maharashtra Revenue Tribunal, Mumbai (**MRT**) partly allowing revision filed by the contesting Respondents and setting aside the order dated 15th July, 2022 passed by the Sub-Divisional Officer (**SDO**), Thane in Tenancy Appeals No.34 of 2021, 35 of 2021 and 36 of 2021. The Tribunal has proceeded to set aside order dated 29th September, 2018 read with corrigendum dated 15th October, 2018 passed by Agricultural Land Tribunal (**ALT**) and Tahasildar, Thane in Application No.46 of 2016 and

the said application is remanded to the ALT for being deciding afresh for grant of proper opportunity to the contesting parties.

2. I have heard Mr. Mohd. Nawaz Haindaday, learned counsel appearing for the Petitioner and Mr. Sunil Karandikar, learned counsel appearing for the contesting Respondents.

3. After having heard the learned counsel appearing for parties, it appears that in their tenancy application, Petitioners impleaded mostly dead persons. Initially, the notices in the tenancy applications were deliberately bunched together in respect of multiple Respondents by addressing envelopes to dead persons. To illustrate, notices in respect of Opponents No.1 to 7 were bunched together in common envelope which was addressed in the name of Mr. Pandurang Shrikrishna Sandu, who was already dead. Similarly, notices in respect of Opponents No.8 to 10 were bunched together and put in a common envelope which was dispatched in the name of Pandurang Shrikrishna Sandu, who again was dead. Similar, modus was adopted in respect of the rest of the contesting opponents. Once the envelopes dispatched in the names of dead persons were returned with remark that they are dead, Petitioners desired amendment of the Tenancy Application No.46 of 2016 for bringing on record legal heirs of the dead opponents. However, it appears that strange procedure was adopted by the Petitioners by directly filing a copy of amended tenancy application reflecting therein the names of legal heirs of the dead Opponents. It appears that separate application was not filed by the Petitioners to bring on record legal heirs of the dead Opponents and instead an amended tenancy application was directly presented before

Tahasildar by assuming that the Tahasildar was bound to allow the application for bringing legal heirs on record.

4. Be that as it may. The amended plaint was presented before Tahasildar on 28th December, 2016. Before securing any order from the Tahasildar for grant of amendment in the plaint, Petitioners simultaneously filed an application on 28th December, 2016 falsely pleading therein that despite issuance of notices to the Opponents, the same were not served nor returned which was causing delay in decision of the proceedings. Petitioners therefore applied for service of notices on Opponents through paper publication. Thus before the amended plaint would be accepted by permitting impleadment of legal heirs, Petitioners filed application for service on them through paper-publication by making a false statement in that application that notices issued to the proposed legal heirs were neither served nor returned. It appears that the Tahasildar ultimately allowed the Petitioners' prayer for bringing legal heirs on record on 19th January, 2017 and passed following order :-

"अर्ज मान्यं करण्यात येत आहे. त्याप्रमाणे दाव्यात दुरुस्ती करण्यात यावी व सुधारित फेर नोटिसा काढाव्या."

5. Thus there was a specific order by the Tahasildar for issuance of fresh notices to all the Opponents on 19th January, 2017. Admittedly, no such notices were issued to the original as well as newly impleaded Opponents in pursuance of order dated 19th January, 2017. Instead the Petitioners' pressed their mischievous application dated 28th December, 2016 before Tahasildar who proceeded to pass order dated 16th March,

2017 directing issuance of paper publication for service on the Opponents. Thus without making any attempt to serve the Opponents through individual notices, Petitioners deliberately obtained order for service through paper publication possibly to prevent Opponents from appearing and participating in the tenancy application. This conduct on the part of the Petitioners is clearly deplorable.

6. Resultantly I do not find any valid reason to interfere in the order passed by the MRT. The order passed by the MRT would only ensure that the Opponents before Tahasildar will have an opportunity to contest the tenancy claim of the Petitioners. Merely because the contesting Respondents were granted an opportunity to participate in the appeal filed before the SDO does not mean that the inherent error committed by the Tahasildar at the stage of the trial of the proceedings would get cured. Unfair trial and fair appeal is no answer.

7. In my view, the MRT has rightly set right the error committed by the Tahasildar in deciding the tenancy claim behind the back of the landlords. In fact, the manner in which the proceedings were prosecuted by the Petitioners before the Tahasildar is not appreciable. They deliberately addressed notices to dead persons by putting notices meant for service on living opponents in common envelopes. By making a false statement in application dated 28 December 2016, they created picture of service of notices through paper publication. All this was obviously aimed at securing order behind the back of opponents. Though the order passed by MRT merely ensures decision of proceedings by ALT by hearing the landlord, Petitioners have dragged them before this Court in this frivolous and

baseless Petition. Therefore, dismissal of the present petition shall not be without imposition of costs.

8. The Petition is accordingly dismissed.

9. Petitioners shall pay costs of Rs.1 lakh to the contesting Respondents. Payment of costs to the contesting Respondents shall be condition precedent for hearing of the tenancy case which is remanded by the MRT before the Tahasildar.

10. The costs shall be paid by drawing a Demand Draft in the name of Respondent No. 6- Mr. Nagesh Ramkrishna Sandu within a period of four weeks from today.

11. Writ petition accordingly stands dismissed with costs as directed above.

(SANDEEP V. MARNE, J.)