

Arun Sankpal

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6070 OF 2025

Jyotkumar Zamandas Rupani (Deceased) ..Petitioners
Through LRs

Versus

Hirabai Maruti More & Ors ...Respondents

Mr. V. Joglekar, Senior Advocate, with Drupad Patil & Ajay Jaybhay ,
for the Petitioners.

Mr. Surel Shah, Senior Advocate, with Kunjan Makwana & Viraj
Shelatkar, i/b Nor Mittal, for Respondent No.1.

Ms. Tanu Bhatia, AGP, for Respondent Nos. 2 and 3-State.

CORAM: N. J. JAMADAR, J.

DATED : 30th JUNE 2025

P.C.:

1. Heard Mr. Joglekar, the learned Senior Advocate for the Petitioners, Mr. Shah, the learned Senior Advocate, for the Respondent No.1, and Ms. Bhatia, the learned AGP for the Respondent Nos. 2 and 3.

2. The challenge in this Petition is to an order dated 27th February 2025, passed by Maharashtra Revenue Tribunal ("MRT") in Revision Application No. P/X/01/2024, whereby the learned President, MRT, was persuaded to allow the Revision Application by setting aside an order passed by the Sub Division Officer ("SDO"), Mulshi, District Pune, in Tenancy Application No. क. टेनन्सी/अ/एसआर/नं.8/2017, dated 8th

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November 2019, whereby the learned SDO had, in turn, set aside the order dated 2nd February 2017, passed by the Tahshildar, Maval in case No. दावा क. तमक/15/10/2016, thereby rejecting the Application preferred by the Petitioner No.2-Trust purportedly under Section 15 of the Maharashtra Tenancy And Agricultural Lands Act, and Tenancy Act 1948 (“the MT & AL Act”), for recovery of possession of the subject land.

3. The learned Tahshildar was of the view that the predecessor-in-title of the Respondent was declared as a protected tenant vide Mutation Entry No. 96, dated 1st August 1951. Thereafter, the names of the legal heirs of the protected tenant, Maruti Bhagu More came to be mutated in the Record of Rights of the suit land, in the said capacity. Since the Petitioner No.2-Trust had not assailed the said order, the prayer for deletion of names of the Respondents and recovery of possession of the suit property purportedly under Section 15 of the MT & AL Act was not tenable.

4. The learned SDO reversed the finding of the Tahshildar.

5. In Revision, the Revenue Tribunal was of the view that, the Mutation Entry No. 96, dated 1st August 1951 declaring the predecessor-in-title of the Respondents as a protected tenant was lawfully certified and until the said declaration was reversed or set aside in an appropriate proceeding under MT & AL Act, the SDO could not have ordered the deletion of the said entry.

6. Mr. Joglekar, the learned Senior Advocate, for the Petitioner submitted that the authorities did not take into account the fact that, the subject land was used for growing grass naturally. Thus, no tenancy rights could have been claimed in respect of the subject land. Reliance was sought to be placed on the judgment of the learned Single Judge of this Court in the case of **Pune Panjarpole Trust Vs Baban Gabaji Saste**.¹

7. The manner in which the Petitioner No.2-Trust sought to challenge the determination made by the authorities under the MT & AL Act was not in conformity with the provisions of the said Act. If the Petitioner No.-2-Trust was aggrieved by the mutation of the name of the predecessor-in-title of the Respondents as a protected tenant of the suit land, the proper course was to approach the authorities under MT & AL Act, agitating the question of status of the predecessor-in-title of the Respondents as a protected tenant. The Petitioner No.2-Trust could not have approached the revenue authority.

8. In the circumstances of the case, having regard to the fact that Mutation Entry No. 96, dated 1st August 1951, declaring the predecessor-in-title of the Respondents as protected tenant has been in operation for over sixty years, the MRT cannot be said to have committed any error in rejecting the claim of the Petitioner No.2-Trust. If the Petitioners intend to challenge the status of the predecessor-in-title of the Respondents, as a protected tenant, they will have to approach

1 2007(6) Mh.L.J. 755.

Agricultural Land Tribunal (“ALT”) under the MT & AL Act. In the event, such an application is filed, under Section 70 of the MT & AL Act, the ALT may decide the same in accordance with law.

9. To facilitate the Petitioner to approach the ALT and seek appropriate reliefs, the Respondents are directed not to create any third party rights in the suit property for a period of four weeks from date of uploading of the this order.

10. In the event, such an application is filed, the ALT shall decide the same in accordance with law on its own merits without being influenced by the impugned order and the orders passed by the Authorities below, and the fact that this Court has restrained the Respondents from creating third party rights in the suit land for a limited period.

11. The Petition stands disposed.

[N. J. JAMADAR, J.]