

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6830 OF 2025

Ganpat Sahadu Borate Since deceased through ..Petitioners
Legal Heirs -

1. Ramesh Ganpat Borate & Ors

Versus

Ananda Amruta Avhale & Ors ...Respondents

Mr. Chaitanya B. Nikte, with Vishal Tiwari, i/b Prajit S. Sahane, for
the Petitioners.

Mr. A.Y. Sakhare, Senior Advocate, with Rohan Mirpur, for
Respondent Nos. 1 to 23.

Ms. M.S. Srivastava, AGP, for Respondent Nos. 26 to 28.

CORAM: N. J. JAMADAR, J.

DATED : 1st AUGUST 2025

ORDER:

1. The challenge in this Petition is to an order dated 9th December 2024 passed by the President, Maharashtra Revenue Tribunal, Pune (“MRT”) in Revision Application No. TNC/REV/P/X/5/2014, whereby the Revision Application preferred by the Petitioner assailing an order passed by the Sub Divisional Officer (“SDO”), Haveli, Pune in Tenancy Application No. 32 of 2013, which in turn had affirmed the order dated 31st August 2014 passed by the Agricultural Land Tribunal, Pune (“ALT”) in a proceeding under Section 70(b) of the Maharashtra Tenancy and

ARUN
RAMCHANDRA
SANKPAL

Digitally signed by
ARUN
RAMCHANDRA
SANKPAL
Date: 2025.08.04
10:42:43 +0530

Agricultural Lands Act 1948 (“the Act of 1948”), declaring that the Respondents were the tenants in respect of the subject land, came to be dismissed.

2. An agricultural land bearing old Survey No. 121 admeasuring 25 Acres and 14 Gunthas, new Survey No. 252, admeasuring 10 Hector 14 Are, situated at Taleranwadi, Taluka Haveli, District Pune (“the subject land”), was the Patil inam land. After abolition of Inam, the subject land came to be re-granted to Trimbak Hargude, the predecessor-in-title of the Respondent No. 25. Ganpat Sahadu Borate, the predecessor-in-title of the Petitioner claimed to have purchased the subject land under a registered instrument on 27th April 1988.

3. In the first round of the litigation an Application preferred by the predecessors-in-title of Respondent No.1 to 23, for fixing the purchase price under Section 32 G of the Act 1948, came to be dismissed by the Authorities under the Act of 1948 upto MRT. The said order of MRT was also confirmed by this Court.

4. In the meanwhile, alleging that the predecessors-in-title of the Petitioner, on the strength of the purported transfer started to cause obstruction to the cultivation and enjoyment of the subject land some of the Respondent Nos. 1 to 23 filed a Suit for injunction simplicitor, being RCS No. 1367 of 1989. By a judgment and order dated 24th December 1998, the said Suit came to be decreed and the Petitioners were

restrained from causing obstruction to the possession and cultivation of those Respondents-Plaintiffs. An appeal preferred by the Petitioners thereagainst before the District Court also came to be dismissed.

5. Respondent Nos. 1 to 23 preferred an Application for declaration that they are the tenants in respect of the subject land. The declaration made by ALT by a judgment and order dated 7th August 2013 has been affirmed by the SDO, in Tenancy Appeal No. 32 of 2013, and the MRT, by the impugned order.

6. Mr. Nikte, the learned Counsel for the Petitioners, would urge that on the self-same material the Application for fixing the purchase price of the subject land under Section 32G of the Act of 1948, was dismissed by the Authorities under the Act of 1948. Yet, while making the declaration that the Respondent Nos. 1 to 23 are the tenants in respect of the subject land, the Authorities have unjustifiably banked upon the entries in the Record of Rights showing that the predecessors-in-title of the Respondent Nos. 1 to 23 were the tenants and the observations of the Civil Court in the Suit for grant of injunction simplicitor. An endeavour was made by Mr. Nikte to urge that, apart from the mere entries in the Record of Rights, there is no material to show that the predecessors-in-title of Respondent Nos. 1 to 23 were lawfully cultivating the subject land.

7. Curiously the Authorities under the Act of 1948 have placed reliance on an Affidavit sworn by Trimbak Hargude, the Vendor of the Petitioners that the Respondent Nos. 1 to 23 were in cultivation of the subject land as tenants, after the said Trimbak Hargude divested himself of the title and interest in the subject land, urged Mr. Nikte.

8. Mr. Sakhare, the learned Senior Advocate, for Respondent Nos. 1 to 23, supported the impugned order. It was submitted that there is overwhelming material to show that predecessors-in-title of Respondent Nos. 1 to 23 have been cultivating the subject land since the year 1939. Attention of the Court was invited to the Record of Rights of the subject land which reveal the said fact.

9. I have given careful consideration to the rival submissions.

10. Firstly, the submissions of Mr. Nikte that the issue of tenancy of the predecessors-in-title of the Respondent Nos. 1 to 23 stood concluded by the orders passed in the proceeding under Section 32 G of the Act of 1948, does not merit acceptance, unreservedly. What was affirmed by the MRT and consequently this Court in the said proceeding was an order passed by the SDO allowing the Appeal preferred by the some of the Petitioners and Trimbak Hargude, the landlord, and remitting the matter to the ALT while directing some of the Respondent Nos. 1 to 23 to first obtain a declaration about their tenancy under Section 70(b) of the Act of 1948.

11. Secondly, it is imperative to note that there is overwhelming material on record to show that the predecessors-in-title of Respondent Nos. 1 to 23 have been in possession and cultivation of the subject land since 1939. In fact, the Mutation Entry No. 2287 certified in the year 1948, records that the predecessors-in-title of Respondent Nos. 1 to 23 were the protected tenants in respect of the subject land.

12. Thirdly, the issue of factum of possession and cultivation of the subject land by Respondent Nos. 1 to 23/ predecessors-in-title of Respondent Nos. 1 to 23 stood cemented with the decree passed by Civil Court; which was affirmed in the Appeal.

13. The thrust of the submission of Mr. Nikte was that, apart from the mere entries in the cultivators column in the Record of Rights of the subject land, there is no material, like rent receipts or other documents to substantiate the claim of tenancy. Mr. Nikte, would urge, in the Application under Section 70(b) of the Act of 1948, the Respondent Nos. 1 to 23 had averred that they had paid the rent to the landlord and cess to the Government in the capacity of the tenants, and, yet, not an iota of material could be placed on record.

14. The aforesaid submission premised on the absence of rent receipts or other documents to substantiate the claim of the tenancy simply does not deserve consideration.

15. In view of the provisions contained in Section 2(18) which defines ‘tenant’ and Section 4 which specifies the persons who can be deemed to be tenants, what has to be shown is that the person claiming to be a tenant was in lawful cultivation of the subject land and did not fall within the categories of the persons mentioned in Clause (a), (b) and (c) of Section 4 of the Act of 1948. It is not the requirement of the law that such person must substantiate his claim by producing the Lease Deed or rent receipts. Such fashioned notions of the law of landlord and tenant which require the entries in the tenancy column, rent notes or rent receipts, to support the claim of tenancy has consciously been departed from by the legislature, by adopting definition of “statutory tenancy”, dehors such evidentiary material.

16. A profitable reference, in this context, can be made to the decision of a learned Single Judge of this Court in the case of **Jagannath Vithu Jadhav (Since Deceased) Through LRs. Smt Shalan Jagannath Jadhav and Ors Vs The State of Maharashtra & Ors**,¹ wherein, after adverting to the previous pronouncements, the legal position was expounded as under:

“14. It can, thus, clearly be seen that this Court has taken a consistent view that it is not necessary to have an entry in the tenancy column or rent note or rent receipt to support the claim of the tenant of statutory tenancy. It has further been held that all that is required under Section 4 of the said Act is

1 2013 2 MhLJ 285.

lawful cultivation by a person other than the member of the family of the landlord, subject to the other conditions laid down in Section 4.”

17. The aforesaid being the position in law, there is no justifiable reason to interfere with the concurrent findings of facts recorded by the Authorities under the Act of 1948 based on overwhelming material to show that the predecessors-in-title of the Respondent Nos. 1 to 23 have been lawfully cultivating the subject land since 1939. It could be legitimately urged that, on the Tiller’s Day, they became the deemed purchasers of the subject land.

18. Thus, no interference is warranted in the impugned order in exercise of limited supervisory jurisdiction.

19. Hence, the following order:

: O R D E R :

The Petition stands dismissed.

[N. J. JAMADAR, J.]