



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.739/2024

Vijay Laxmandas Bairagi and others

...Versus...

Sub-Divisional Officer, Buldhana, Tq. And District Buldhana and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. Anand Jaiswal, Sr. Advocate i/b Mrs. R.G. Bajaj, Advocate for petitioners
Mr. S.V. Narale, AGP for respondent Nos.1 and 2
Mr. Abhay Sambre, Advocate for respondent No.3

CORAM : SACHIN S. DESHMUKH, J.

DATE : 05/08/2025

1. The challenge is to the order rendered by the Maharashtra Revenue Tribunal by which application under Section 120 of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act 1958 (for short hereinafter "Tenancy Act, 1958) has been rejected. The issue primarily revolves around the petitioners' continued possession over agricultural land in spite of the rejection of claim of petitioners as tenants, which has attained finality.

2. It is the case of the petitioners that a purchase certificate under Section 43 (8) of the Tenancy Act, 1958 was issued by the Tahsildar recognizing right of father of petitioners as a purchaser of the said land. The said certificate was subject matter of challenge before the Sub Divisional officer i.e. in Revenue Case No.TNC Chandol/2/2007-08 which resulted into setting aside the order rendered by the Tahsildar, issuing the purchase certificate. In further challenge

to said order of Sub Divisional Officer, the Maharashtra Revenue Tribunal eventually held that the petitioners have utterly failed to establish the landlord-tenant relationship. Thereafter, the petitioner approached this Court by presenting Writ Petition No.5302/2011 which was subsequently withdrawn, as such, the finding in relation to rejection of tenancy rights of the petitioners has attained finality.

3. Preceded by the aforesaid litigation, proceedings under Section 120 of the Tenancy Act, 1958 were taken out since the petitioner continued to occupy the subject property. Owing to the dismissal of tenancy claim the possession of the petitioner being unauthorized and illegal, the respondent No.3 presented the proceedings under Section 120 of the Tenancy Act, 1958 of summary eviction owing to unauthorized occupation of the petitioner. The said claim of the respondent No.3 was rejected by the Sub Divisional Officer, however, in an appeal the Maharashtra Revenue Tribunal allowed the proceedings and directed to initiate eviction proceedings holding that the petitioner does not have any lawful right to continue in possession after dismissal of the tenancy claim of the petitioner.

4. In the aforesaid backdrop, Mr. Anand Jaiswal, learned Senior Counsel for the petitioners has submitted that Section 120 of the Tenancy Act, 1958 ought not to be used summarily to evict the petitioner, although the possession is unauthorized or illegal, same should be protected.

5. Per contra, Mr. Abhay Sambre, learned Counsel for the respondent No.3 supported the order submitting that the tenancy claim has attained finality up to this Court.

Therefore, the continued possession of the petitioners is *per se* illegal, resultantly, the Maharashtra Revenue Tribunal has rightly exercised its jurisdiction to ensure summary eviction of the petitioners.

6. Having considered the submissions on behalf of the litigating sides, right to continue in possession of the land although the claim of tenancy of the petitioners has turned down and nonetheless it has attained finality and further initiation of proceedings under Section 120 of the Tenancy Act, 1958 have been taken out in right earnest by the respondent and upheld by the Maharashtra Revenue Tribunal. It is an admitted position that the petitioner's tenancy claim has been rejected. The said rejection has attained finality up to this Court, which is evident from withdrawal of petition so presented by the petitioner. Once the finding is rendered that there is no landlord-tenant relationship, therefore, any continued possession thereafter has to be recognized as unauthorized.

7. In any case the Tenancy Act, 1958 in any manner does not confer protection to the person whose tenancy claim has been adjudicated and eventually suffered an order of dismissal. As such, the recourse to summary eviction as provided under Section 120 of the Tenancy Act, 1958 as against the unauthorized occupant, which is the only statutorily recognized remedy aimed to prevent illegal retention of the land, which essentially has to be restored to the lawful owner.

8. As such, the order rendered by the Maharashtra Revenue Tribunal is in the wake of fact that the tenancy claim

of the petitioners has been rendered negative, as such, the continued possession in uncertain term is illegal one. Nevertheless, allowing such possession to be continued in an unequivocal terms would defeat the object of the Tenancy Act, 1958, which is rather aimed to protect the genuine claimants and not to confer protection unlike the present petitioners whose claim is turned down, as such, can be regarded as unauthorized occupants of the land. Therefore, in absence of any lawful right to continue the possession, it is not open for the petitioners to object the summary eviction. Thus, the order of Maharashtra Revenue Tribunal, which is under challenge is justifiable one and is in conformity with the object of the Tenancy Act, 1958. As such, the same cannot be regarded as unsustainable or unjustifiable one. Resultantly, the writ petition stands dismissed. No order as to costs.

(SACHIN S. DESHMUKH, J.)