



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

WRIT PETITION NO.2759/2018

PETITIONERS :
Ori. Applicants

1. Gulabrao Laxman Kolhe, since dead through L.Rs.
 - (i) Ghanshyam s/o Gulabrao Kolhe, aged 58 years.
 - (ii) Sanjay s/o Gulabrao Kolhe, aged 45 years.
 - (iii) Anjanabai w/o Gulabrao Kolhe, aged 77 years.
2. Haribhau Laxman Kolhe, aged 80 years.
(Dead) through L.Rs.
 - 2-1. Venubai Wd/o Haribhau Kolhe
Aged about 62 years, Occ. Household
 - 2-2. Anil S/o Haribhau Kolhe
Aged about 45 years, Occ. Business.
 - 2-3. Sunil S/o Haribhau Kolhe
Aged about 47 years, Occ. Business.
 - 2-4. Sushil S/o Haribhau Kolhe
Aged about 42 years, Occ. Business.

Applicant nos.1 to 3 are resident of
Digdoh, MIDC, Tq. Hingna, Distt. Nagpur.

(Added petitioner Nos.2-1 to 2-4 vie Court's
order dated 17.6.2019)
(Amendment carried out as per Court's order
dated 17/6/2019)

3. Anandrao Laxman Kolhe,
aged 78 years.

All Occ. Agriculturists.
All resident of Digdoh, Taluka Hingna,
District Nagpur.

...VERSUS...

RESPONDENTS : 1. Tahsildar, Kamptee, District Nagpur.
Ori.Non-app.

2. Patwari Gada PH No.19, through
Office of Tahsildar Kamptee, Dist.
Nagpur.
3. Chandrabhagabai wd/o Gopala Dawande,
aged major, Occ. Agriculturist, resident of
Susundara Mendla, Taluka Karanja,
District Wardha

(WP dismissed in default against R-3,
vide Court's order dated 21-12-2018)

4. Gajanan Hansram Dawande,
aged about Major, Occ. Agriculturist.
5. Dharmaraj Hansram Dawande,
through its L.Rs.
 - a. Smt. Baby Dharmaraj Dawande,
aged about Major. Occ. Agriculturist.
 - b. Ku. Archana Dharmaraj Dawande,
aged about Major, Occ. Agriculturist.
 - c. Ku. Kalpana Dharmaraj Dawande,
aged about Major, Occ. Agriculturist.
 - d. Ku. Sushma Dharmaraj Dawande,
aged about Major, Occ. Agriculturist.
 - e. Ku. Savarna Dharmaraj Dawande,
aged about Major, Occ. Agriculturist.

- f. Ku. Bali Dharmaraj Dawande
aged about Major, Occ. Agriculturist.
6. Baburao Hansram Dawande,
aged about Major, Occ. Agriculturist.
7. Duryodhan Hansram Dawande,
aged about Major years, Occ. Agriculturist.
8. Chandrabhan Hansram Dawande,
aged about Major years, Occ. Agriculturist.

Respondent nos.4 to 8 resident of
Gada, Tahsil Kamptee, District Nagpur.

9. Sou. Punjabai W/o Nanaji Fule,
aged about 60 years, Occ. Agriculturist.
Resident of Mouza Gada, Tahsil Kamptee,
District Nagpur.
10. Ajay Baburao Shendre
aged about 45 years, Occ. Agriculturist,
resident of Santaji Nagar, Kandri, Post
Kanhani, Pipri, Tahsil Parseoni,
District Nagpur.
11. Sub Divisional Officer, Mouda,
Tahsil Mouda, District Nagpur.
12. Maharashtra Revenue Tribunal,
old Secretariat, behind First Floor,
Civil Lines, Nagpur through its Member.

Mr. R.L. Khapre, Sr. Advocate i/b Mr. S.S. Deshpande, Advocate for petitioners
Mr. H.D. Futane, AGP for respondent Nos.1, 11 and 12
Mr. S.P. Bhandarkar, Advocate for respondent Nos.4, 6 to 8 and 10

CORAM : SACHIN S. DESHMUKH, J.
DATE : 24/07/2025

ORAL JUDGMENT :

1. Heard. Rule. Rule made returnable forthwith. By consent of the parties, the petition is heard finally at the stage of admission.

2. Petitioners are raising an exception to the order rendered by the Member, Maharashtra Revenue Tribunal dismissing the revenue appeal presented by the petitioners.

3. At this juncture, it would be appropriate to make necessary reference to the provisions of Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (for short hereinafter “Tenancy Act, 1948”), more particularly provisions of Chapter II, III of the Tenancy Act, 1958. In the wake of the provisions after declaration of the forefather of the respondents as protected tenant, the right of purchase was conferred upon the tenant and in the process purchase price as contemplated under Section 47 was determined and paid by the tenant. Eventually culminated into sale-deed.

4. The original landlord i.e. father of petitioner, during life time has never ever raised any objection in any manner to the tenancy rights created in favour of the tenant and eventual sale-deed, and effecting the consequential mutation entries. However, for the first time in the year 2009 present petitioners claiming to be successors of landlord with an unexplained delay of 45 years, for first time presented

the proceedings with an assertion that the entries effected in favour of the tenant are effected by playing fraud.

5. The revenue authorities considered the sequence of event, conferring the rights in favour of the tenant and eventual sale-deed culminated into effecting mutation entries in favour of tenant and legal heirs. The authorities below have rejected the proceedings presented by the petitioners herein principally on the ground of unexplained and inordinate delay. The authorities i.e. Tahsildar, Sub Divisional Officer and finally Maharashtra Revenue Tribunal, concurrently have in an unequivocal term rendered the finding principally on the ground of unexplained delay, dismissed the claim of petitioner.

6. In the aforesaid background, it was the contention of Mr. R.L. Khapre, learned Senior Counsel for the petitioners that the respondents herein have played fraud while effecting mutation entries in revenue record. Therefore, the authorities ought to have taken into account the objection raised by the petitioners herein and in the process should have condoned the delay of 45 years. It is the further contention on behalf of the petitioners that a specific ground of fraud being played is raised in the proceedings, however, same is also not taken into account by the respondents authorities while rejecting the objection of the petitioners.

7. Per contra, Mr. Bhandarkar and Mr. Futane (AGP), learned Counsels for the respective respondents have supported the order by submitting that the challenge is an after thought and with unexplained and inordinate delay. During life time, the original landlord has never ever raised any objection and it is the petitioners who are legal representatives of the landlord have raised the challenge with an oblique motive and the proceedings is nothing but abuse of process of law. The proceedings of tenancy and eventual mutation entries in that regard has attained finality, as such, the same cannot be reopened, much less at the instance of the present petitioners, who were conscious of the proceedings, declaring the forefather of the present respondents as tenant and eventual sale-deed in their favour.

8. Considering the rival submissions of the litigating sides, it would be appropriate to note the fact that the execution of sale-deed as contemplated under Section 47 is preceded by many events those are statutorily recognized. The following sequence of events establishes the fallacy in the claim of the petitioner since, the same is raised with an unexplained delay. The same are as follows :-

- i. Hansram Chindu Dawande viz. original tenant was declared as a protected tenant as per Section 8(2) of the Bombay Tenancy Act of subject land bearing survey No.13 admeasuring 36 Acres.

- ii. Pursuant to such declaration, mutation entry was effected in the Revenue Record on 29.04.1962.
- iii. The original owners of the said land, during the lifetime, did not raise any challenge, neither to the order declaring the original tenant as a protected tenant nor to the consequential mutation entry so effected.
- iv. On the basis of the aforesaid, ownership rights were granted in favour of original tenant viz. Hansram Chindu Dawande by the Additional Tahsildar in Revenue Case Nos.199/59-13/1968-1969 and 708/59-13/1968-1969.
- v. After the death of the original tenant, the name of his legal heirs viz. Respondents herein have been recorded in the Revenue Record.

This sequence of events have taken place in the wake of statutory provisions and the corresponding entries to that effect have been recorded by the statutory authority. Pertinently those have attained finality for want of challenge on the part of the predecessor of petitioner. Thus, the issue of tenancy has attained finality and same cannot be permitted to be reopened, as is attempted by the petitioner after expiry of unexplained and inordinate delay of 45 years.

9. Equally, the ground which is raised by the petitioners about fraud being played by the respondents herein while executing the sale-

deed, the said ground is not pleaded in the application presented before the authorities or the revisional authorities. Pleading of fraud could have extended an opportunity to the respondents to confront with the same. Resultantly, the ground so raised cannot sustain in any manner. As such, the ground raised in absence of pleading is of no assistance to the petitioners herein.

10. Attempt of Mr. Khapre, learned Senior Counsel for the petitioners to invite the attention of this Court to the ground of fraud in absence of the pleading, the necessary evidence in that regard and pertinently in absence of any opportunity to other side to confront with an allegation of fraud simply deserves no consideration. Therefore, the order rendered by the Maharashtra Revenue Tribunal endorsing the order of the authorities below cannot be faulted with. As such, the authorities below are justified while rejecting the claim of the petitioners herein which is a stale claim. As such, the writ petition does not deserve any consideration. Resultantly, the writ petition is dismissed. Rule stands discharged. No order as to costs.

(SACHIN S. DESHMUKH, J.)