



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

CIVIL REVISION APPLICATION NO.27/2024

Mayaram S/o Nanhu Parihar and others

...Versus...

Ramkrushna S/o Lodan Warthi (Since Dead) Through Legal Heirs Radhika
Wd/o Ramkrushna Warthi 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. A.N. Vastani, Mr. A.A. Vastani & Mr. R.K. Thakkar, Advocates for applicants
Mr. V.R. Borkar, Advocate for respondent No.1(a to c) and 2 to 10

CORAM : ROHIT W. JOSHI, J.

DATE : 07/10/2025

1. The respondents have filed a suit for possession with respect to agricultural land against the present applicants.
2. Perusal of the plaint averments indicate that according to the plaintiffs the suit property which is an agricultural land was given for cultivation to the predecessor of the defendant on Theka (Contract). The defendant has also filed a counterclaim for specific performance of contract alleging that there was a contract for purchase of the property *inter se* between the predecessor of the plaintiffs and defendant.
3. The trial of the suit has commenced with filing of affidavit in lieu of examination-in-chief by the plaintiffs. At this stage, an application for rejection of plaint came to be filed by the defendant, claiming that the jurisdiction of Civil Court to entertain the suit is barred in view of Section 124 of the

Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (for short hereinafter referred to as “Tenancy Act”).

4. Perusal of the plaint averments would indicate that according to the plaintiffs, the suit property was left to the predecessor of the defendant and the defendant had committed breach of the terms under which the property was left by not making payment of the amount of Theka (Contract). The plaint averments will demonstrate that the predecessor of the defendant to whom the land was given for cultivation was a tenant within the meaning of the aforesaid Tenancy Act. The tenancy rights under the provisions of the Tenancy Act are heritable. Assuming that the tenancy has come to an end and the defendant is unauthorized occupant, the power to order summary eviction against a person who is unauthorized occupant is vested with the Collector under Section 120 of the Tenancy Act. Likewise Sections 36, 39 and 39 A of the Tenancy Act also provide for eviction of a tenant. Section 124 of the Tenancy Act creates a bar to jurisdiction of Civil Court with respect to all or any of the matters which the Authorities under the Act are competent to decide. The suit is clearly barred by Section 124 of the Tenancy Act.

5. The learned trial Court has erred in rejecting the application for rejection of plaint by referring to written statement and counterclaim filed by the defendant.

6. In view of the above, the civil revision application deserves to be allowed and the same is allowed accordingly. The order dated 06/09/2023, passed by the learned Joint Civil Judge, Senior Division, Gondia below Exh.129 in Special Civil

Suit No.18/2019 is hereby quashed and set aside. The plaint in Special Civil Suit No.18/2019, pending on the file of Joint Civil Judge Senior Division, Gondia is rejected under Order 7 Rule 11 (d) of the Code of Civil Procedure.

(ROHIT W. JOSHI, J.)

Wadkar