



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

WRIT PETITION NO. 7133 OF 2024

1. Vishnu Shankarrao Gaikwad,
Age 51 Yrs. Business - Farmer,
R/o Pipri (Meghe), Wardha,
Ta. Dist. Wardha.
2. Vilas S/o Shankarrao Gaikwad,
Age 47 Yrs. Business- Service,
R/o Vrundawan Nagar, Wardha,
Ta. Dist. Wardha.
3. Vinod S/o Shankarrao Gaikwad,
Age 34 Yrs. Business-Farmer,
R/o Borgaon (Meghe), Wardha
Ta. Dist. Wardha.
4. Sau. Manda Shalikrao Bhende
Age 55 Yrs. Business-Housewife,
R/o Yaswant Colony,
Hinganghat, Dist. Wardha.
5. Sau. Sunanda Suresh Bhoyar
Age 50 yrs. Business- Housewife,
R/o Kolar, Ta. Hingna, Distt.
Nagpur.
6. Smt. Sushilabai Shankarrao
Gaikwad, Age 34 Yrs. Business-
Housewife, R/o Pipri (Meghe),
Wardha, Ta. Dist. Wardha.
7. Shri. Manik Bhaurao Gaikwad,

Age 63 Yrs. Business-Farmer,
R/o Pipri (Meghe), Wardha
Ta. Dist. Wardha.

8. Shri. Ramesh Bhaurao Gaikwad,
Age 53 Yrs. Business-Farmer,
R/o Pipri (Meghe), Wardha
Ta. Dist. Wardha.

9. Shri. Avinash Bhaurao Gaikwad,
Age 50 Yrs. Business-Farmer,
R/o Pipri (Meghe), Wardha
Ta. Dist. Wardha.

10. Sau. Sau. Rambhau Nakhale,
Age 53 Yrs. Business-Farmer,
R/o Pipri (Meghe), Wardha
Ta. Dist. Wardha.

....**PETITIONERS**

....**VERSUS**....

1. Anand S/o Sadashiv Meghe,
Age- Major, Business-Farmer,
R/o Borgaon (Meghe), Wardha
Ta. Dist. Wardha.

2. Madhav S/o Sadashiv Meghe,
Age-Major, Business-Farmer,
R/o Borgaon (Meghe), Wardha
Ta. Dist. Wardha.

3. Mukund S/o Sadashiv Meghe,
Age-Major, Business-Farmer,
R/o Borgaon (Meghe), Wardha
Ta. Dist. Wardha.

4. Vinayak S/o Sadashiv Meghe,
Age-Major, Business-Farmer,
R/o Borgaon (Meghe), Wardha
Ta. Dist. Wardha.
5. Indubai Sadashiv Meghe,
Age-Major, Business-Housewife,
R/o Borgaon (Meghe), Wardha
Ta. Dist. Wardha.
6. Sau. Aruna W/o Sahebrao Bonde,
Age-Major, Business-Housewife,
R/o Yavatmal, Ta. Dist. Yavatmal.
7. Sau. Mrudula Manoharrao
Jadhav, Age-Major, Business-
Housewife, R/o Arvi, Ta. Arvi,
Distt. Wardha.
8. Sau. Sucheta Vasantrao Mahalle,
Age-Major, Business-Housewife,
R/o Kurhad, Dist. Yavatmal.
9. Ku. Vibha D/o Sadashiv Meghe,
Age-Major, Business-Housewife,
R/o Borgaon (Meghe), Wardha,
Ta. Dist. Wardha.
10. Vitthal Rukhmai Mandir
Deosthan Trust, Pipri (Meghe),
Tah. & Dist. Wardha, through it's
Trustee Vinayak Sadashio Meghe.
- ~~11. Maharashtra Revenue Tribunal,
Bench at Nagpur, through
Registrar, 1st Floor
Divisional Commissioner's Office,~~

~~Opposite G.P.O., Civil Lines,
Nagpur~~

(R.No. 11 deleted as per order dtd.
10/12/2024)

....RESPONDENTS

Shri Abhijeet Deshpande, Advocate for Petitioners.
Shri A.D.Mohgaonkar, Advocate for Respondent No. 10.

CORAM:- M.S. JAWALKAR, J.

DATE OF RESERVING THE JUDGMENT:- 16/04/2025

DATE OF PRONOUNCING THE JUDGMENT:- 05/06/2025

JUDGMENT

1) **RULE.** Rule made returnable forthwith. Heard finally
by consent of learned Counsel for the respective parties.

2) By way of the present Writ Petition, the Petitioners
challenges the order dated 28/08/2024 passed by the learned
Member, Maharashtra Revenue Tribunal, Nagpur,
(hereinafter referred to as "the learned Tribunal") below
Exhibit 22, in the Appeal bearing No. REV/TNC/WAR-
41/2022, whereby the preliminary objection raised by the
present Petitioners to the maintainability of the aforesaid
Appeal was rejected.

3) The Respondent Nos. 1 to 10 had filed Proceedings under Section 38 of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (hereinafter referred to as "the Tenancy Act") against the present Petitioners praying for removing the names of the present Petitioners from record as being the Tenants in respect of the lands in question.

4) The present Petitioners are concerned only with land bearing Survey No. 289/1 situated at Pipri (Meghe) Tehsil and District Wardha, which is admeasuring 1.50 H. R. (hereinafter referred to as "the land in question"), being the successors/legal heirs/legal representatives of the original Tenants viz. Shankar Govind Gaikwad and Zhingragi Pandurang Gaikwad, though the Proceedings under Section 38 of the Tenancy Act, refers to other three lands also, the present Petitioners opposed the aforesaid Application filed by the Respondents. Thereafter, the learned Tahsildar, Wardha,

by order dated 18/08/2021, directed to delete the names predecessors of the present Petitioners and other Tenants.

5) Being aggrieved by the aforesaid order dated 18/08/2021, the Petitioners preferred Revenue Appeal before the learned Collector, Wardha under Section 107 of the Tenancy Act. The learned Deputy Collector, Wardha upon hearing the parties, by order dated 07/09/2022, allowed the aforesaid Appeal and set aside the order dated 18/08/2021 passed by the learned Tahsildar, Wardha. Thereafter, the present Respondent Nos. 1 to 10 challenged the said order dated 07/09/2022 before the Maharashtra Revenue Tribunal, Bench at Nagpur by filing Revision bearing Appeal No. REV/TNC/WAR-41/2022 under Section 111 of the Tenancy Act.

6) Before filing the Revision under Section 111 of the Tenancy Act before the learned Tribunal, present Respondent Nos. 1 to 4 sold the land in question to M/s. Sai Builders and Developers through its three partners by way of registered

Sale Deed dated 13/09/2022. Since, upon execution of Sale Deed, the present Respondent Nos. 1 to 10, undisputedly did not have any interest, title, right left in the land in question, as they have divested themselves of the said land, the present Petitioners filed preliminary objection along with the copy of registered Sale Deed dated 13/09/2022 in the Revision filed by Respondent Nos. 1 to 10, before the learned Tribunal about its maintainability. The present Respondent Nos. 1 to 10 filed their reply to it. Thereafter, the learned Member (Judicial) (In-charge) of the Tribunal, Nagpur, by order dated 13/02/2022 (signed on 15/02/2024), rejected the aforesaid preliminary objection, filed by the present Petitioners. The aforesaid order below Exhibit 22 passed in the said Revision came to be challenged by the Petitioners before this Court by way of filing Writ Petition No. 2129/2024. This Court on 14/06/2024, by consent of the parties set aside order dated 13/15.02.2024 passed by the learned Tribunal and directed the learned Tribunal to decide the Application (Exhibit 22) afresh within a period of two months from the date of receipt of copy of the

said order.

7) After remand of the matter by this Court, the same was heard by the Tribunal afresh. The Tribunal, thereafter, by order dated 28/08/2024, passed below Exhibit 22 again rejected the preliminary objection filed by the Petitioners. The aforesaid order is the subject matter of challenge in the present Writ Petition.

8) Learned Counsel for the Petitioners contended that the learned Member of the Tribunal failed to appreciate that once the landlords/present Respondent Nos. 1 to 10 had disposed of the land in question by a Registered Sale-Deed on 13/09/2022 in favour of M/s. Sai Builders & Developers, they had lost all the interest, title and right in the said land, nor did they have any '*locus standi*' to file and maintain the Revision dated 27/09/2022 before the Tribunal in respect of the said land.

9) It is further contended that the learned Member of the Tribunal further failed to appreciate that the original Proceedings initiated by the present Respondents before the Tahsildar were under Section 38 of the Tenancy Act which only a landlord is entitled to initiate. As the ownership and possession are divested in favour of M/s. Sai Builders & Developers, the Respondents have no more remained the owners/landlords and consequently have no right to continue the Proceedings under Section 38 of the Tenancy Act as the landlords. Accordingly prayed for interference by this Court in the impugned order.

10) Learned Counsel for the Petitioners relied on the judgment in the case of *Shree Vyankatesh Collector Staff Co-operative Housing Society Ltd V/s. Ramchandra Bapurao Gulhane and ors. [1986 Mh.L.J. 421]*.

11) On the contrary, the Respondent Nos. 1 to 10

specifically denied that the Petitioners are the tenants of the agricultural land in question and contended that the said land is in possession of the Respondent Nos. 1 to 10 as the Trustees of Vitthal Rukhmai Mandir Deosthan Trust. It was in the year 2019 when Gao Namuna 7/12 was obtained by the Trustees of Vitthal Rukhmai Mandir Deosthan, the names of Shankar Govind Gaikwad and Zingraji Gaikwad are shown as the tenants. The Respondents applied for removing the names of those persons and maintaining the name of Deosthan on 7/12 Extract as per the Rules. The Tahsildar obtained the report of Talathi of Pipri (Meghe). According to the report of Talathi, the Survey Nos. 289/1, 343, 361 and 19 ad-measuring 1.50, 2.74, 0.68 and 8.20 hectare agricultural land is being cultivated by Vithal Rukhmai Mandir Deosthan Trust through its Trustee Anand Sadashiv Meghe and others. The ownership of the land is by inheritance in favour of the Trustee. The land is also in the possession of Vitthal Rukhmai Mandir Deosthan. It is also an admitted fact that the said land was cultivated by Bhaurao Zingraji Gaikwad and Shankar Govindrao Gaikwad

till 1963. Thereafter, nobody from the so-called tenants cultivated the land. But, since then, it is in the possession of Vitthal Rukhmai Mandir Deosthan Trust through its trustee Anand Sadashiv Meghe and others. The Tahsildar, accordingly, passed an order removing the names of the so-called tenants from the record which needs no interference and also prayed for dismissal of the present Writ Petition.

12) Heard learned Counsel for the respective parties, perused the documents on record, considered the citations relied on by the parties.

13) On perusal of the order dated 28/08/2024 passed below Exhibit 22, it appears that the learned Tribunal has considered the fact that the names of the predecessors of the Petitioners were on 7/12 Extract as 'Kool' (protected Tenants), however, the learned Tribunal misled itself by observing that while executing the Sale-Deed, the Respondents herein were not aware of the order passed by the Deputy Collector, Wardha.

It was the contention of the Respondents before the learned Tribunal that they were not aware of passing of the order on 07/09/2022 and it was presumed by them that the land is not under any encumbrances. Moreover, in the Sale-Deed, there was a clause stating that if there is any dispute arose in respect of the sold property, the Respondent Nos. 1 to 10 would compensate to the purchasers, and therefore, they are entitled for filing the Revision Application before the Tribunal. Admittedly, the order of the learned Deputy Collector is passed on 07/09/2022 and the Respondent Nos. 1 to 10 sold the property on 13/09/2022. Therefore, there is every possibility of getting the knowledge of the order passed by the learned Deputy Collector. Even if there is no record or document to show that the order dated 07/09/2022 was within the knowledge of the Respondent Nos. 1 to 10, however, it is admitted fact that they have contested the proceeding before the Deputy Collector. As such, they are having knowledge about filing of Appeal. Therefore, they cannot take the ground of presumption that there is no

encumbrance on the sold land.

14) Learned Counsel for the Petitioners relied on the judgment in the case of *Shree Vyankatesh Collector Staff Co-operative Housing Society Ltd (supra)* wherein this Court held as under:-

“the ex-owners had no locus standi to intervene in the matter and create impediment in the affairs of the property in the hands of the statutory purchaser which property had been lost to the owners by virtue of the statutory purchase. They had, therefore, no right to file an objection before the Sub-Divisional Officer or even to prefer a revision application before the Revenue Tribunal.”

15) It appears that the learned Tribunal has not appreciated the ratio laid down in the judgment in the case of *Shree Vyankatesh Collector Staff Co-operative Housing Society Ltd (supra)*. In view of the Registered Sale-Deed, the Respondent Nos. 1 to 4 have no *locus standi* to challenge the order passed by the Deputy Collector, as this Sale-Deed in respect of the land Survey No. 289/1. The total land is

disposed of by way of Sale-Deed by the Respondent Nos. 1 to 10. In view of the ratio laid down in *Shree Vyankatesh Collector Staff Co-operative Housing Society Ltd (supra)*, they have lost all the interest in the property, and hence, they are not entitled to challenge the order passed by the Deputy Collector by way of any Proceedings. Only because some clause is there in the Sale-Deed that the vendor will compensate the vendee, if there is any claim of any person in the said property, that does not give any right to the vendor to file such Revision Application. As such, the objection raised by the Petitioners is perfectly maintainable and the Revision is liable to be dismissed on the same count.

16) Hence, I proceed to pass the following order:-

ORDER

(a) The Writ Petition is **allowed**.

(b) The order dated 28/08/2024 passed by the

learned Member, Maharashtra Revenue Tribunal, Nagpur, below Exhibit 22, in the Revision bearing Appeal No. REV/TNC/WAR-41/2022 is hereby quashed and set aside.

(c) As such, the Revision also stands **dismissed** as not maintainable.

The Writ Petition stands **disposed of** in the above terms.

Pending Application(s), if any, stand(s) **disposed of**.

(M.S. JAWALKAR, J.)

B.T.Khapekar/Ansari