



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

28 WRIT PETITION NO. 10678 OF 2016

Shamrao Santu Mete Died Through Lrs Shivganga Digambar Doke &
Others

VERSUS

Uttreshwar Govinda Mete & Others

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Advocate for the Petitioners : Mr. R. P. Bhumkar.

Advocate for Respondent No.1: Ms. More Shubhangi D.

Mr. Vitthalrao Mete, Party-in-Person for Respondent No.3

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CIVIL APPLICATION NO. 2284 OF 2025

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 17.02.2026

PER COURT :

1. Heard the learned counsel for the respective parties.
2. The petitioners are aggrieved by the order dated 25.06.2014 passed by the Maharashtra Revenue Tribunal, Aurangabad, whereby the Tribunal has set aside the order dated 27.03.2006 passed by the Additional Tahsildar (Tenancy) and the order dated 11.02.2011 passed by Deputy Collector (Tenancy) thereby remanding the matter to the Additional Tahsildar (Tenancy).
3. The respondent no.3, who appears in person, submits that pursuant to the order of learned MRT, the proceedings were conducted by the Tahsildar, Washi, and the matter has already been decided. It is further submitted that the said order passed by the Tahsildar has been challenged by the petitioners before the Deputy Collector. Therefore, it is

contended that nothing survives in the present petition.

4. The learned counsel for the petitioners vehemently submits that the order passed by the Maharashtra Revenue Tribunal is itself illegal. He further submits that there is an order passed by the competent Civil Court in favour of the petitioners and the same has not been set aside till date. In view of the aforesaid position, it is contended that the revenue authorities ought not have decided the matter. He, therefore, urges this Court to decide the matter on its own merits. In support of his contention, he has relied upon the judgment in ***Bhanudas @ Suryabhan s/o Ramchandra Shinde v. State of Maharashtra & Others***, reported in ***2023 (2) Mh.L.J. 555***, particularly paragraph no. 11 thereof, which reads as under:-

“In rejoinder Mr. Shermale would urge this Court to entertain the present petition by ignoring the alternate remedy owing to the peculiar facts and circumstances of the case where contradictory findings are recorded by Civil Court and authorities exercising powers under the Act of 2014.”

and in ***“Vishwanath Gopinath Borude & Ors. v. Pandharinath Gopinath Bordue & Ors., 2017 (2) Mh. L. J.*** particularly on paragraph no.21, which reads as under:-

“21. The provisions of section 40 run as under:

40. Rights of tenants are heritable.— (1) *Where a tenant dies, the land holder shall be deemed to have continued the tenancy—*

(a) if such tenant was a member of an undivided Hindu family, to the surviving members of the said family, and

(b) if such tenant was not a member of an undivided Hindu family, to his heirs, on the same terms and conditions on which such tenant was holding it at the time of his death.

(2) The surviving members, or as the case may be, the heirs to whom the tenancy is continued under subsection (1) shall be entitled to partition and subdivided the land leased subject to the following conditions.

- (a) each sharer shall hold his share as a separate tenant.
- (b) the rent payable in respect of the land leased, shall be apportioned among the sharer according to the share allotted to them.
- (c) the area allotted to each sharer shall not be less than the unit which the State Government may, by general or special order, specify in this behalf having regard to the productive capacity and other circumstances relevant to the full and efficient use of the land for agriculture.
- (d) the area is less than the unit referred to in clause (c), the sharer shall be entitled to enjoy the income jointly, but the land shall not be divided by metes and bounds.
- (e) if any question arises regarding the apportionment of the rent payable by the sharers, it shall be decided by the Tahsildar whose decision shall be final."

and in ***"Krishnadevi Malchand Kamathia & Ors. v. Bombay Environmental Action Group & Anr. (2011) 3 SCC 363*** particularly on paragraph no.23, which reads as under:-

"23. After receiving the report from the Committee duly constituted by the District Collector on 20-5-2010, the District Collector passed the order on 26-5-2010 directing the appellants as under:-
(1) All the material used for filling to increase the height be removed, maintain the earlier position of the bund as expected in the permission order dated 27-1-2010.
(2) Remove the rubble dumped in the open land in question.
(3) Remove the rubble and filling and let the natural flow of seawater, which is at present obstructed, entering inside the survey number in question.
(4) Remove filling used for increasing the height of the bund to the height as expected in the permission order dated 27-1-2010.
The aforesaid order has been passed by the Collector after considering various reports of experts/officers."

5. Relying upon the aforesaid judgment, the learned counsel for the petitioners submits that in view of the subsisting order passed by the Civil Court, the revenue authorities had no jurisdiction to decide the matter. He, therefore, submits that the order passed by the Tribunal is liable to be set aside.

6. Having heard the learned counsel for the respective parties and upon perusal of the order impugned before the Maharashtra Revenue

Tribunal, it appears that the Tribunal passed the order on 25.06.2014. Admittedly, no interim relief was granted by this Court and the present petition is pending since the year 2016. During the pendency of the present writ petition, pursuant to the remand order passed by the Tribunal, the Tahsildar has decided the matter afresh. The learned counsel for the respondents, appearing in person, has placed on record a copy of the revision preferred by the petitioners challenging the order passed by the Tahsildar pursuant to the remand order.

7. In view of the aforesaid position, without going into the merits of the matter, since pursuant to the remand order impugned in the present petition the Tahsildar has already decided the matter and the said order is also under challenge at the instance of the petitioners, nothing survives for consideration in the present petition.

8. It is made clear that this Court has not recorded any findings on merits. It is for the authority before whom the revision is pending to decide the same in accordance with law, uninfluenced by any observations made by the Tribunal or by this Court.

9. All contentions of the parties are kept open.

10. In view of the above, the writ petition stands disposed of.

11. Pending Civil Applications, if any, stand disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE