IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2583 OF 2000

Smt. Parvatibai Gopal Kore Died through Legal Heirs :-

1. Prabhakar Gopal Kore. Age: 48 yrs; Occu Agri. F/O at:-At & Post: Shendur, Taluka Kagal, District: Kolhapur.

2. Udaysinh Gopal Kore Died thorugh Legal Heirs :-

2-A. Smt. Sunita Udaysinh Kore Age: 32 yrs, Occu: Agri & Housework.

2-B. Kumar Pratik Udaysinh Kore Age: 12 yrs, Occu: Student.

2-C. Kumar Prathmesh Udaysinh Kore Age: 10 yrs; Occu: Student. Petitioner Nos. 2-B& 2-C Appearing through Naturial Guardian Mother, the Petitioner No. 2-A.

All R/O at:-At & Post: Shendur, Taluka: Kagal, District: Kolhapur. … Petitioners

V/s.

1) Tatoba Dadu Magdum
2) Krishna Dadu Magdum
3) Bala Dadu Magdum
All R/O at:-At & Post: Sidhanerli,
Taluka: Kagal, District: Kolhapur. … Respondents

Mr. Sandeep Koregave, Advocate for the Petitioners.

Mr. Ashuthosh M. Kulkarni (Through VC) a/w. Mr. Akshay Kulkarni a/w. Mr. Aditya Ghadge, Advocate for respondent nos1 to 3.

CORAM : SHAILESH P. BRAHME, J.

RESERVED ON : OCTOBER 06, 2026
PRONOUNCED ON : OCTOBER 28, 2026

JUDGMENT:

1. Rule. Rule made returnable forthwith and heard finally.

2. The petitioner is challenging the judgment and order dated 31/12/1999 passed by the learned Member of the Maharashtra Revenue Tribunal in Tenancy Revision No. MRT-KP-5/1994, whereby the order passed by the Sub-Divisional Officer was reversed and the order passed by the Tahsildar declaring the respondents to be tenants was confirmed.

3. The petitioner is the landlady against whom Tenancy Case No. 17 of 1987 was filed by the respondent-tenants under Section 70(b) of the Bombay Tenancy and Agricultural Lands Act (hereinafter referred to as "Act" for the sake of brevity and convenience) before the Tahsildar. The application was contested and allowed by order dated 30/09/1988.

4. Being aggrieved, the petitioner preferred Tenancy Appeal No. 6 of 1989 before the Sub-Divisional Officer. The appeal was allowed on 05/10/1993. The respondents preferred a revision against that order before the Revenue Tribunal, which was allowed by the impugned judgment and order.

5. Its a case of the respondent that Yamunabai was the landlady of Gat Nos.1661 and 1664 and was the mother of the petitioner. She had inducted the respondents' forefather, Dadu Ramu Magdum, as a tenant at the rate of Rs.500/- per year and 160 kg rice. After the death of the original tenant, the respondents cultivated the lands and paid rent. Sugarcane was supplied to the factory. Rent receipts, receipts for education cess and a receipt issued by the sugar factory were produced on record to corroborate the claim.

6. The petitioner contested the claim on the ground that possession was at all times remained with the petitioner. The revenue record and the interim injunction granted in RCS No. 21 of 1986 supported the claim. The respondents were never tenants. The rent receipts issued by Yamunabai are disputed. It is further contended that the respondents' names were not entered as tenants in the revenue record.

7. The respondents adduced oral evidence through four witnesses and also relied on a receipt dated 11/05/1968 issued by Yamunabai, which referred to the names of the tenants; an application dated 14/01/1981 submitted by the petitioner to the sugar factory; receipts issued by the sugar factory; and receipts for cess.

8. The petitioner adduced oral evidence through five witnesses and relied on the 7/12 extract, the orders passed by the Court in RCS No. 21

of 1986, the orders passed in the RTS proceedings and the panchanama.

9. The Tahsildar and the Maharashtra Revenue Tribunal concurrently decided in favour of the respondents. The order passed by the Sub-Divisional Officer in favour of the petitioner was reversed by the Tribunal. In this backdrop, the counsel for both sides canvassed their submissions.

10. Learned counsel for the petitioner submitted that the Tribunal committed a jurisdictional error by relying on the receipt dated 11/05/1968 and the application dated 14/01/1981. Neither of the documents have been proved and both are doubtful. It is submitted that the revenue record, the RTS proceedings and the order passed by the Civil Court in RCS No. 21 of 1986 support the petitioner's claim, which was arbitrarily discarded. It is further submitted that although the petitioner supplied sugarcane from time to time to Shri Chhatrapati Shahu Sahakari Sakhar Karkhana. The cross-examination of the witnesses Tatoba, Siddha and Pandurang shows that the respondents' claim is false. It is further contended that the witnesses Chandar and Ramu, who were once tenants, supported the petitioner.

11. The learned Counsel for the respondent submitted that the contents of receipt dated 11/5/1968 are proved. The oral evidence corroborates the documents. The petitioner is estopped from

challenging the documents. There is no reason for Yamunabai to inform the sugar factory to pay the sugarcane price to the tenants. It is submitted that Chandar and Ramu are interested witnesses. It is further contended that factum of tenancy was not issue in R.C.S. No. 21 of 86 and crop inspection proceedings. The Tribunal has rightly exercised the jurisdiction.

12. I heard the rival submissions of the parties. Both sides produced oral and documentary evidence on record in support of their respective claims.

13. The petitioner had filed RCS No. 21 of 1986 seeking an injunction against the respondents, along with an application for temporary injunction. The Trial Court granted temporary injunction on 04/04/1986. The respondents challenged that order by filing Miscellaneous Civil Appeal No. 71 of 1986, which was dismissed on 15/10/1986. The petitioner succeeded in establishing a prima facie case and possession for the purpose of obtaining temporary injunction. The selfsame documents were relied on in those proceedings. The suit is still pending.

14. The respondents had filed RTS/SR/90 of 1985 seeking entry of their names for the years 1984–1985 and 1985–1986. The application was allowed by order dated 28/01/1986. That order was reversed by

the Sub-Divisional Officer in RTS Appeal No. 13 of 1986. The order of the Sub-Divisional Officer was confirmed by the Additional Collector on 20/12/1994.

15. The respondents are unable to produce any revenue record showing an entry of their names or Dadu's name as a tenant. In the above-referred proceedings, the petitioner is recorded to be in possession. The 7/12 extract records the name of Yamunabai and thereafter that of Parvatibai, the petitioner. Sugarcane was supplied to the sugar factory at Kagal at the instance of the petitioner throughout. There are several receipts relating to the year 1988. The cess receipts are in the petitioner's name through Dadu, the respondents' forefather; however, those receipts are insufficient to infer that the respondents are tenants. They relate to the year 1971.

16. The cross-examination of witness No. 1 for the respondents, Tatoba, shows that he was unable to give material particulars regarding the tenancy allegedly conferred on his father. The receipt dated 11/05/1968 is also doubtful. The claim that a pipeline was laid by the tenant has not been corroborated. The cross-examination of witness No. 2, Siddha, shows that the tenant's name was not entered in the 7/12 extract. The cross-examination of witness No. 3, Pandurang, indicates that he was unable to state the Gat numbers mentioned in the 1968 receipt. The same is the case with the cross-examination of Krishna.

These witnesses are unable to establish that the material particulars of tenancy. The Tribunal has not dealt with the admissions in the cross-examinations referred to above.

17. Both parties mainly relied on the receipt dated 11/05/1968, which bears Yamunabai's thumb impression. The original document has not been placed on record. The respondents' witnesses refer to its execution but are unable to clarify which lands are mentioned in it. The receipt refers to six tenants, but it is unclear as to who is holding which land. It would be unsafe to accept the document. The Tribunal committed a jurisdictional error by accepting the document merely because, according to it, the petitioner had not challenged it. That finding is perverse because the petitioner has been consistently challenging the document. It was produced before the Trial Court in RCS No. 21 of 1986 to support the respondents' claim of possession. The document was not accepted, and injunction was granted

18. The respondents also rely on the application dated 14/01/1981. The original application is not on record, and the parties have relied on a photocopy. It refers to a 1/4th share of Parvatibai and a collective 3/4th share of Pandurang and Krishna. The probative value of the document is doubtful. In the absence of cogent corroborative material, it is difficult to accept that the respondents were tenants throughout and supplied the sugarcane.

19. I am unable to concur with the findings recorded by the Tribunal. The Tribunal committed grave jurisdictional error in overlooking with the cross-examination of the witnesses and in upholding the probative value of the receipt dated 11/05/1968 and the application dated 14/01/1981. The petition is entitled to succeed. Hence, I pass the following order:

ORDER

(A) Rule is made absolute in terms of prayer clause (b).

(B) There shall be no order as to costs.

(SHAILESH P. BRAHME, J.)