

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9653 OF 2024

Harishchandra Chahya Patil & Ors.

.. Petitioners

Versus

Balaram Kashinath Patil & Ors.

.. Respondents

.....

- Mr. Rahul Pandit a/w Mr. Premanand Torane, Advocates for Petitioners
- Mr. Milind Parab, Advocate for Respondent Nos. 1 to 3, 5, 8 to 10, 12 to 15

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 2, 2026

P. C.:

1. Heard Mr. Pandit, learned Advocate for Petitioners and Mr. Parab, learned Advocate for Respondent Nos. 1 to 3, 5, 8 to 10, 12 to 15.

2. Present Writ Petition impugns the order dated 18.12.2023 passed by the learned Maharashtra Revenue Tribunal (for short "**MRT**") in Revision proceedings under Section 76 of the Maharashtra Tenancy & Agricultural Lands Act, 1948 (for short '**Tenancy Act**').

3. Though it is argued by Mr. Pandit that Petitioners have no grievance whatsoever with respect to the orders passed under the provisions of the Tenancy Act i.e. order under 32G and certificate under 32M, their fundamental grievance is with respect to their respective holdings. Mr. Pandit would vehemently submit that

holdings of Petitioners rather the holdings coming to the Petitioners from their predecessor-in-title are primarily much less in area than what is appearing on the revenue record. In that regard, he would refer to and rely upon the mutation entry No. 334 dated 04.07.1969 effected while making sub-division of original Gat Nos. 30 to 43 between the parties.

4. The challenge in the Tenancy Appeal filed before the SDO is to this mutation entry effecting holdings of the respective parties. However it is filed after a humongous delay of 52 years which stands condoned. Be that as it may, once the grievance of the parties is not with respect to challenge to the substantive proceedings and orders passed under the Tenancy Act and it is only in respect of the actual holdings of the parties, Petitioners ought to have filed an appropriate proceeding under the Maharashtra Land Revenue Code, 1966 seeking survey, measurement and redrawing of the boundaries rather than challenging mutation entry No. 334 altogether. Such proceedings not having been effected have been flagged down by the order in Revision passed by the MRT while maintaining a challenge to the SDO's twin orders dated 22.09.2022 and 10.10.2022. It is seen that both the above orders passed by the SDO are in Tenancy Appeal. The action on behalf of SDO, Pen in having converted the RTS Appeal into a Tenancy Appeal stands correctly rejected by the learned MRT. When the cause

of action and the grounds stated in the RTS Appeal filed by the Petitioners are seen, it is *prima facie* evident that grievance of Petitioners is only in respect of their holding and the reliefs / prayer clauses prayed for are *prima facie* incongruous with the grounds of cause of action. The grounds are enumerated in paragraph Nos. 15 to 17 whereas cause of action is enumerated in paragraph No. 18 of the RTS Appeal. SDO has completely misdirected himself while passing the order dated 22.09.2022 and the correction order dated 10.10.2022 by converting the RTS Appeal into Tenancy Appeal. Both these orders are clearly unsustainable.

5. Needless to state that Petitioners before me have also challenged mutation entry Nos. 610 and 611 both dated 25.06.2014 with respect to their holdings. By virtue of these mutation entries, effect of death of family members of Petitioners and their legal heirs has been recorded. If Petitioners are aggrieved with their holding, it shall be open to the Petitioners to take out appropriate proceedings in accordance with law as available to them. While reserving the aforesaid liberty dismissal of this Writ Petition and upholding of the impugned order passed by the learned MRT dated 18.12.2023 shall not come in the way of the Petitioners if Petitioners seek to apply for survey, measurement and redrawing of boundaries of their respective

holding in accordance with law. Reserving that liberty to the Petitioners, Writ Petition stands disposed in the above terms.

6. All contentions of Petitioners with respect to their holdings are expressly kept open in the appropriate proceedings filed by Petitioners in accordance with law.

7. Petition is disposed in the above terms.

[MILIND N. JADHAV, J.]

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