*MPBalekar*

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 10969 OF 2014**

Hari Babu Waghare
(Since deceased through his legal heirs)
and Ors. … Petitioners

**V/s.**

Krishna (Kisan) Dagadu
Kap and Ors. … Respondents

**WITH**
**INTERIM APPLICATION NO. 8808 OF 2025**
**IN**
**WRIT PETITION NO. 10969 OF 2014**

Mr. Rajesh N. Kachare for the petitioners.

Mr. Y.D. Patil, AGP, for the State – Respondent No. 9.

**CORAM : AMIT BORKAR, J.**

**DATED : APRIL 29, 2026**

**P.C.:**

**1.** By the present writ petition instituted under Article 227 of the Constitution of India, the petitioner has called in question the legality, propriety and correctness of the judgment and order rendered by the Maharashtra Revenue Tribunal, Mumbai in Tenancy Revision No. 110/B/2002, whereby the Tribunal has recorded a finding declaring the respondents to be tenants in respect of the subject agricultural lands.

**2.** The factual matrix giving rise to the present writ petition, in brief, is thus. The lands bearing (i) Survey No. 84, Hissa No. 1 (old) corresponding to New Survey No. 31, Hissa No. 1, (ii) Survey

No. 128, Hissa No. 10 (old) corresponding to New Survey No. 78, Hissa No. 10, and (iii) Survey No. 128, Hissa No. 4 (old) corresponding to New Survey No. 78, Hissa No. 4, were originally owned by one Vinayak Balkrishna Sathe. Upon his demise, the name of his heir and legal representative, Sakharam Vinayak Sathe, came to be entered in the record of rights as owner by virtue of Mutation Entry No. 92, which was duly certified. Thereafter, Sakharam Vinayak Sathe expired on 29 December 1951, leaving behind his widow, Sarla Sakharam Sathe, as his legal heir, whose name was accordingly recorded in the record of rights under Mutation Entry No. 458, which also came to be certified. It is further borne out from the record that one Pandu Damji Kaap was the original tenant in respect of the said lands prior to the year 1958, and his name was entered in the record of rights pursuant to Mutation Entry No. 310. Upon the death of the said Pandu, his wife, Laadibai Pandu Kaap, was shown as his legal representative. Subsequently, Laadibai expired on 25 September 1957, whereupon her daughter-in-law, namely Anandibai Dagadu Kaap, came to be recorded in the revenue records, and Mutation Entry No. 544 was accordingly effected.

**3.** It further appears that during the period 1956–57, Anandibai Dagadu Kaap was not personally cultivating the subject lands for a continuous period of two years, which fact was noticed by the competent authority. Consequently, her name came to be deleted from the record of rights by recording Mutation Entry No. 558, which was certified on 16 October 1959 and has remained unchallenged till date. The petitioners contend that they purchased the said lands from the original owner pursuant to an agreement dated 15 December 1961 executed with Respondent No. 4, and their names, or those of their predecessors, were entered in the record of rights under Mutation Entry No. 661, certified on 1 July 1962. It is also brought on record that one Sripati Waghare, a person of standing in the village, was shown as a tenant in respect of the said lands under Mutation Entry No. 472. However, the said Sripati Waghare made a statement before the competent authority declaring that he was not cultivating the lands, and accordingly, by an order dated 15 June 1974, his name was deleted from the record of rights. Consequential mutation being Entry No. 851 was recorded and certified on 10 November 1974. Thereafter, Respondent No. 1, claiming to be the legal heir and representative of the original tenant Dagadu Kaap, instituted proceedings on 29 June 2000 before the Tahsildar and Agricultural Lands Tribunal, Mangaon, being Tenancy Case No. 53A of 1999, which came to be contested by the petitioners and their predecessors by filing a detailed reply.

**4.** The Tahsildar and Agricultural Lands Tribunal, Mangaon, by judgment and order dated 23 November 2000, dismissed the said tenancy case. Being aggrieved thereby, the petitioner preferred Appeal No. 1 of 2002 before the Sub-Divisional Officer, Mangaon Division, Mangaon. The Sub-Divisional Officer, by his order, dismissed the appeal and confirmed the judgment and order of the Tahsildar. Thereafter, Respondent Nos. 1 to 3 carried the matter in revision by filing Tenancy Revision Application No. 110/B/2002 before the Maharashtra Revenue Tribunal, Mumbai. The Tribunal, by its judgment and order dated 23 April 2014, allowed the revision application, set aside the concurrent findings recorded by the authorities below, and held in favour of the respondents.

**5.** The learned Advocate appearing for the petitioners submitted that while conducting the inquiry under Section 32(G) of the Maharashtra Tenancy and Agricultural Lands Act, 1948, the competent authority had categorically refused to accept the claim of the respondents that they were tenants in respect of the disputed lands. Such finding, according to him, was duly affirmed by the appellate authority. It was contended that the Tribunal, however, proceeded to rely upon the findings recorded by the Assistant Charity Commissioner, particularly with regard to the possession of the erstwhile tenant Pandu, and treated such findings as relevant for determining possession as on the tillers' day. On that basis, the Tribunal accepted the case of tenancy set up by the respondents. The learned Advocate further invited attention to the findings recorded by the Tribunal itself, wherein it was observed that the claim of the respondents as legal representatives of Pandu was not accepted, thereby rendering the ultimate conclusion of the Tribunal inconsistent with its own findings.

**6.** It was further submitted that the Tribunal has failed to record any clear or positive finding as contemplated under Section 40 of the Maharashtra Tenancy and Agricultural Lands Act, 1948, which provision mandates that only those persons who express willingness to continue the tenancy are entitled to be recognized as tenants in respect of agricultural land. In absence of such a finding, it was urged that the Tribunal could not have, in law, proceeded to declare the respondents as tenants of the subject lands.

**7.** The learned Advocate appearing for the respondents has remained absent. In the circumstances, this Court is left with no alternative but to proceed to decide the writ petition on merits, upon consideration of the material available on record.

**8.** Upon careful perusal of the record and proceedings placed before this Court, it appears that the First Authority, while exercising powers under Section 32G of the Maharashtra Tenancy and Agricultural Lands Act, 1948, has recorded a categorical finding against the present respondents. The authority has observed that the respondents have not produced any cogent material, documentary or otherwise, to establish that they were cultivating the subject land as agricultural tenants. It is seen that the inquiry under Section 32G requires proper proof of tenancy, particularly with reference to the relevant date. In such situation, when the respondents failed to bring any convincing evidence, the First Authority was justified in dismissing Appeal. The reasoning of the First Authority shows that it has considered the available revenue entries and surrounding circumstances, and thereafter reached a conclusion that the claim of tenancy is not supported by material. This finding, therefore, cannot be said to be casual or without basis, but appears to be grounded on appreciation of record.

**9.** It further emerges from the record that the authorities under the Act have declared the alleged purchase as ineffective. The reason for such conclusion is that after the tillers' day, the name of the daughter-in-law of the original tenant Pandu came to be deleted from the revenue record. This aspect assumes importance because the continuity of tenancy is required to be shown with some certainty. After such deletion, there is no material to show that the respondents or their predecessors continued in possession in the capacity of tenants. The respondents appear to have relied only upon a subsequent revenue entry made in the year 1998–1999. However, such belated entry, standing alone, cannot create or revive tenancy rights which were otherwise not subsisting. The authorities have rightly observed that revenue entries are only for fiscal purposes and cannot by themselves confer substantive rights. Therefore, merely because the name of respondents appears in later revenue record, it does not follow that they are tenants within the meaning of the Act. The conclusion of the authorities that the respondents cannot claim tenancy on such weak foundation appears to be proper and in accordance with law.

**10.** It is also seen that the respondents, being dissatisfied with the order passed under Section 32G, preferred an appeal under Section 76 of the said Act. The Appellate Authority, upon re-examination of the material, has concurred with the findings recorded by the First Authority and has affirmed the reasons assigned therein. The Appellate Authority has not found any perversity or illegality in the approach of the First Authority. Thereafter, the respondents carried the matter in revision before the Maharashtra Revenue Tribunal. The Tribunal, however, appears to have accepted the claim of the respondents mainly on the basis that the Assistant Charity Commissioner, in separate proceedings, had recorded a finding that Pandu was in possession of the agricultural land on the tillers' day. In this regard, it is necessary to observe that even if such finding regarding possession of Pandu is accepted, there is no positive and independent finding recorded by the Tribunal establishing nexus between the present respondents and the said tenant Pandu as on the relevant date. The Tribunal itself has not accepted the case of the respondents that one of them was adopted son of Pandu. In absence of such linkage, the claim of succession to tenancy becomes doubtful. The Tribunal, therefore, while exercising revisional jurisdiction, could not have proceeded to disturb concurrent findings of fact recorded by the authorities below, particularly when such findings were based on appreciation of evidence and absence of evidence. The revisional power is limited and does not permit re-appreciation of facts as if it is a first appellate authority. The Tribunal, in the present case, appears to have exceeded its jurisdiction by substituting its own view without adequate legal foundation. For this reason, the impugned judgment and order passed by the Tribunal cannot be sustained in law.

**11.** In view of the aforesaid discussion, this Court is of the opinion that the interference made by the Tribunal is not justified and the orders passed by the authorities below deserve to be restored. Accordingly, the writ petition succeeds. Rule is made absolute in terms of prayer clause (a).

**12.** The writ petition stands disposed of in the above terms. There shall be no order as to costs.

**13.** In view of disposal of the writ petition, the interim application also stands disposed of.

**(AMIT BORKAR, J.)**