

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3889 OF 2026

Vishnu Parat Dargude Since Deceased
Through Legal Heirs

...Petitioners

Versus

Hukumchand Hansraj Lohade Since
Deceased Through Legal Heirs

...Respondents

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Mr. Jayendra Khairnar, a/w Aleema Bohra, i/b Gauri Kulkarni,
for the Petitioners.

CORAM: N. J. JAMADAR, J.
DATED: 8th APRIL, 2026

PC:-

1. Heard the learned Counsel for the petitioners.
2. The challenge in this petition is to an order dated 16th February, 2026 whereby an application preferred by the petitioners – defendants for referring the issue of tenancy to the Agricultural Land Tribunal (“ALT”) under the provisions of Sections 85 and 85A of the Maharashtra Tenancy and Agricultural Lands Act, 1948, came to be rejected.
3. Evidently, the suit came to be instituted in the year 2007 for recovery of possession of the allegedly encroached portion of the suit property. In the said suit, the petitioners - defendants preferred the application for referring the issue of tenancy to the

ALT, on 18th November, 2025. Thus, the learned Civil Judge has categorically observed that the application has been preferred with a view to delay the disposal of the suit 18 years after the institution of the suit. This observation cannot be said to be unfounded.

4. Even otherwise, this Court finds that in the written statement, the petitioners - defendants have raised a defence that they have perfected their title to the suit property by way of adverse possession. Thus, the prayer for reference of the issue of tenancy for adjudication to the ALT is clearly incongruous with the defence of perfection of title by adverse possession. Therefore, the learned Civil Judge committed no error in rejecting the application.

5. The petition thus stands dismissed.

[N. J. JAMADAR, J.]