AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7602 OF 2008

Digambar Shahu Patil … Petitioner
V/s.
Narayan Kashinath Bhuyal & Ors. … Respondents

WITH
INTERIM APPLICATION NO.2060 OF 2026
IN
WRIT PETITION NO.7612 OF 2008

Naresh Vishwanath Kamble & Anr. … Applicants
V/s.
Narayan Kashinath Bhuyal & Ors. … Respondents

WITH
WRIT PETITION NO.7612 OF 2008

Naresh Vishwanath Kamble & Anr. … Applicants
V/s.
Narayan Kashinath Bhuyal & Ors. … Respondents

Mr. Mayuresh Lagu with Mr. Sagar Patil for the petitioner in both writ petitions.

Mr. Vishwajit Sawant, Senior Advocate with Mr. Veerdhaval Kakade, Ms. Apurva Mahadik and Mr. Prabhakar M. Jadhav for (heirs of respondent No.1) respondent Nos.1A, 1B, and 2.

Smt. A.A. Purav, AGP for respondent No.4-State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 25, 2026

P.C.:

1. Amendment granted by order dated 22 January 2026 in Interim Application (St.) No.40346 of 2025 shall be carried out forthwith.

2. For the reasons stated therein, Interim Application No.2060 of 2026 is allowed. Writ Petition No.7612 of 2008 is restored to file and taken up for hearing and final disposal.

3. The present writ petitions bring into question the action taken under the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974. The authorities functioning under this Act have directed that possession of the land be taken away from the petitioner and restored to the respondents.

4. The basic facts are not much in dispute, though their interpretation is strongly contested. The petitioner claims that he is in possession of the land on the basis of a lease said to have been given by the father of the respondents. However, this lease is not a registered document. Only a copy is shown. On the other hand, it is admitted that the respondents belong to a Scheduled Tribe, and therefore the protection of the Act is available to them. In the year 1999, the respondents approached the authority under the Act seeking restoration of possession. This itself shows that according to them, the land originally belonged to their family and was taken away in a manner not permitted by law. The dispute therefore turns on the nature of the petitioner's possession and whether it can be protected or not.

5. When the matter was taken before the Tehsildar, the petitioner participated and filed his reply. The Tehsildar, however, did not examine the issue independently in full depth. He relied upon an earlier order passed in some other matter and came to the conclusion that since there was no permission from the Collector for such transaction, the petitioner could not continue in possession. On that reasoning, the application of the respondents was allowed. This order was then challenged before the Maharashtra Revenue Tribunal. The Tribunal went a step further. It examined the definition of the term “transfer” under the Act and held that the concept of transfer is not limited only to valid or registered transfers. The Tribunal also recorded that the petitioner himself had admitted before the inquiry officer that possession was taken under a lease from the respondents’ father. Based on this, the Tribunal held that even such a lease would fall within the meaning of “transfer” under the Act.

6. The petitioner has strongly objected to this approach. According to the petitioner, the lease deed was never registered. Under general law, a lease affecting immovable property for a certain period must be registered. If it is not registered, then it does not create any legal right in the property. At the highest, the petitioner says, his possession may be treated as unauthorized. If that is so, then the respondents cannot use the special machinery of Section 3 of the Act. Instead, they must file proper civil proceedings for recovery of possession. In other words, the submission is that the Act applies only when there is a legally recognizable transfer, and not when the possession is merely unauthorised.

7. The respondents, however, have taken a different stand. They rely upon a judgment of the Supreme Court in the case of *State of Maharashtra vs. Gulab Rao,* 1995 Supp (2) SCC 21 and Judgment in Public Interest Litigation No.120 of 2010 in case of *Adivasee Sarvangin Vikas Samitee Vs State of Maharashtra* decided on 12th July 2013 to contend that the Act uses very wide language. According to them, even an unregistered lease would fall within the words "any other disposition". Their argument is that the Act is a welfare legislation meant to protect tribal lands. Therefore, its provisions should not be read in a narrow manner. If possession of tribal land has gone into the hands of a non-tribal by any arrangement, even if informal, the Act permits restoration.

8. To resolve this dispute, it becomes necessary to carefully read the definition of "transfer" under the Act. The definition is quite wide. It includes transfer by act of parties, such as sale, gift, exchange, mortgage, or lease. It also includes other forms like court orders or recovery proceedings. Importantly, it also uses the expression "any other disposition". This shows that the legislature intended to cover various modes by which land of a tribal may pass into the hands of a non-tribal. At the same time, the words used in the definition cannot be read in isolation. They must be understood in their proper context.

9. On a plain reading, the expression "any other disposition" must take its meaning from the words which come before it based on principle of Ejusdem generis. The earlier words refer to recognized forms of transfer where some right, title, or interest in land is created or passed on. Therefore, applying the principle of interpretation, the general words must be read in line with the specific words. This means that “any other disposition” should also refer to a transaction which results in some transfer of right or interest in the land. The important question then is whether an unregistered lease, which does not create legal rights under general law, can still be treated as such a disposition under this Act. This aspect goes to the root of the matter.

10. It is seen that the Tribunal has not examined this issue in sufficient detail. It has proceeded mainly on the admission of possession and on a broad reading of the definition. However, the legal effect of an unregistered lease and whether it can be treated as creating a transferable interest under this special law has not been properly analysed. This requires closer examination. The Tribunal ought to have considered whether mere possession under an unregistered document is enough to attract the provisions of the Act, or whether something more is required in law.

11. In these circumstances, this Court finds that the matter requires reconsideration by the Tribunal. The findings recorded earlier cannot be sustained as they stand. Therefore, the impugned order dated 17 October 2008 passed by the Maharashtra Revenue Tribunal in the concerned appeals is set aside.

12. The parties are directed to appear before the Tribunal on 1 April 2026 at 11.00 a.m., so that the matter can proceed without delay.

13. The Tribunal shall decide the appeals afresh within a period of three months from the date the parties appear before it. While doing so, it shall specifically consider the nature of the alleged lease, its legal effect, and whether it falls within the meaning of "any other disposition" under the Act.

14. All contentions of both sides are kept open. The Tribunal shall decide the matter independently, in accordance with law.

15. Both the writ petitions stand disposed of.

16. The interim relief which was in force during pendency of the writ petition shall continue during pendency of the appeals before the MRT.

(AMIT BORKAR, J.)