

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

CIVIL WRIT PETITION NO. 5580 OF 2023

Prakash Gangaram Pawar & Ors.

..Petitioners

Versus

Sunil Gajanan Apate & Ors.

..Respondents

Mr. Bhooshan R. Mandlik for Petitioners.

Smt. Madhubala Kajle 'B' Panel Advocate for Respondent
Nos.21&22.

CORAM : SARANG V. KOTWAL, J.

DATE : 25 APRIL 2023

PC :

1. The Petitioners have challenged the order dated 14/03/2023 passed by the Maharashtra Revenue Tribunal, Mumbai (hereinafter referred to as 'M.R.T. Mumbai') in TNC/REV/RTN/98/2020 whereby the Respondent No.1's (herein) revision was allowed. The Petitioner No.1 had approached the Tahsildar, Khed and had sought the declaration that he was a tenant in respect of the land situated at Survey No.48 in village Borghar, admeasuring 0-31-60 H.R. This application was made U/s.70(b) r/w. Section 4(1), (2) of the Maharashtra Tenancy and Agricultural Lands Act, 1948. The Tahsildar vide his order dated 04/08/2018

accepted the Petitioner No.1's claim that he was a tenant in that land. The said order was challenged by the Respondent No.1 before the Sub Divisional Officer; who dismissed the revision vide order dated 07/08/2020. Against these two concurrent findings the Respondent No.1 preferred revision before the M.R.T. Mumbai, in which, the impugned order was passed; as mentioned earlier.

2. Learned counsel for the Petitioners submitted that the main reasoning is given by the Tribunal is based on the evidence of the witnesses Prafulla Govalkar, Veersingh Borkar, Mandar Modak etc. It was observed that, these persons could not be in a position to know the facts considering their age. Learned counsel submitted that the Tribunal totally overlooked the main reasons given by the Tahsildar, as well as, the S.D.O. In particular, the S.D.O. in the operative part of his order in clause 5 has observed that the Gram Sabha Resolution, affidavits of Sarpanch and Police Patil and the affidavits of the adjoining land owners are in favour of the Petitioner No.1. These witnesses were cross-examined and, therefore, the Petitioner No.1 was declared as a tenant. This particular observation was not considered by the Revisional

Tribunal i.e. M.R.T. Mumbai.

3. Considering these submissions, it is necessary to hear the Respondent No.1. Learned counsel for the Petitioners has made out a case for grant of ad-interim relief.

4. Hence, the following order:

O R D E R

i) Issue Notice to the Respondent No.1, returnable on 18/08/2023.

ii) Stand over to 18/08/2023.

iii) Till then there shall be ad-interim relief in terms of prayer clause (B), (C) and (D).

(SARANG V. KOTWAL, J.)