

LALITA RAMESH LASE & ORS.

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v.

JAIRAJ KANTILAL SONAWALA & ORS.

(S.L.P. (Civil) No. 10706 of 2014)

DECEMBER 16, 2016

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[DIPAK MISRA AND AMITAVA ROY, JJ.]

Bombay Tenancy and Agricultural Land Act, 1948 – s. 70(B) – Status of protected tenant – Issue as regards petitioners and others claiming to be tenant in respect of certain plots – Applications u/s. 70(B) allowed by the Tehsildar, however, when the matter reached before the High Court, the claim of the petitioners of being protected tenant, was negated – Meanwhile, amendment applications filed by the petitioners seeking that duration of cultivating possession be enhanced from 20-22 yrs to 40-45 yrs was allowed – On appeal, held: Applications filed by the petitioners were in a cyclostyled form which did not adequately contain the particulars of the lands – There was mis-match between the gut numbers and the survey numbers provided by the petitioners – There were inconsistencies in the chart submitted – Amendment applications did not contain the required endorsements to indicate the dates on which those had been submitted and taken on record – Thus, the petitioners failed to prove their claim of protected tenants – Order passed by the High Court does not call for interference.

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Dismissing the Special Leave Petitions, the Court

HELD: 1.1 The High Court noticed amongst others, that the applications filed were all in a cyclostyled form which did not adequately contain the particulars of the lands. That the amendment applications did not contain the required endorsements to indicate the dates on which those had been submitted and taken on record, was noted as well. It noticed too, that by such amendment applications, an attempt had been made to enhance the duration of cultivating possession of the petitioner from 20-22 years to 40-50 years. It recorded the finding of the Tribunal that except the 7/12 extracts/mutation entries for the year 1982-83 showing the names of 25 persons as cultivators

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A and some mutation entries in the names of the legal representatives of the corresponding original applicants, no other document had been produced. That all the applicants had not examined themselves was marked as well. The High Court recorded that on the basis of the materials available, the Tribunal had disbelieved the contents of the applications submitted in the
B cyclostyled forms. It noticed the observation of the Tribunal that the documents/records sought to be produced before it (Tribunal) had not been offered in the earlier rounds of enquiry and that too without any explanation. The conclusion of the Tribunal that though there were documents referring to agricultural lands with
C survey number thereof along with the particulars of the applicants as cultivators but the same were not relatable to the disputed lands was also taken in consideration. [Para 9][189-D-H]

1.2 The demurral of the respondents is writ large on the face thereof. There are several instances in the chart submitted
D by the petitioners exhibiting the inconsistencies pointed out by the respondents. The admission of the petitioners amongst others is also that wrong gut numbers had been mentioned in the initial applications. This chart of the petitioners patently demonstrates that though the original applications were made on the basis of
E gut numbers, the 7/12 extracts and mutation entries, as mentioned in their additional affidavit, do refer only to survey numbers. Though the petitioners have sought to relate the survey numbers with the gut numbers, it is hyaline clear that those do not match in most of the cases with the particulars referred to in their applications. The explanations offered by the petitioners on the
F basis of their possession of the plots involved, in the face of the said anomalies involve highly disputed and contentious questions of facts. Having regard to the prolonged backdrop of the litigation and the several rounds of enquiries already undertaken, this Court is disinclined in the overall fact situation, to interfere with the well considered decision of the High Court. The petitioners, have
G failed over the years, in spite of several opportunities, to prove their claim of protected tenants under the Act, by producing consistent convincing and cogent evidence in support thereof. Thus, judged in the totality of the attendant facts and circumstances, the impugned judgment of the High Court not

merit any interference. [Paras 13, 14][191-A-E]

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CIVIL APPELLATE JURISDICTION: Special Leave Petition
(Civil) No. 10706 of 2014.

From the Judgment and Order dated 31.10.2012 and 01.11.2012
of the High Court of Judicature at Bombay in Writ Petition No. 2539 of
2012

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WITH

SLP (C)...CC No. 11227 of 2014,

SLP (C) D 10476, 22563 and 22559 of 2015,

SLP (C) D No. 1206 of 2014,

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SLP (C) Nos. 24080, 23092, 28382, 18491, 28380, 28367, 28324,
18495, 36132, 28393, 28363, 28417, 23099, 28391, 28396, 28316, 18490,
28381, and 18492 of 2014,

SLP (C) Nos. 22322, 594, 22327, 22329, 18033, 22328, 21992,
632, 22315, 22332 and 22326 of 2015.

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Basava Prabhu S. Patil, Sr. Adv., Vibhakar Mishra, Sunil Kumar
Verma, Advs. for the Appellants.

P. Chidambaram, Dr. Abhishek Manu Singhvi, Pravin Samdani,
Sr. Advs., Ms. Madhavi Divan, Kunal Vajani, Aman Raj Gandhi, Avishkar
Singhvi, Ms. Bindi Girish Dave, Advs. for the Respondents.

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The Judgment of the Court was delivered by

AMITAVA ROY, J. 1. Delay condoned.

2. The procrastinated dissension in these Special Leave Petitions
under Article 136 of the Constitution of India has its inception in the
dogmatic claim of the petitioners of 'being tenants in respect of individual
plots claimed to be in their possession and utilized for cultivation, as
envisaged under the Bombay Tenancy and Agricultural Land Act, 1948
(for short hereinafter refer to as 'the Act'). The exercise launched by
the petitioners herein to achieve this elusive distinction is traceable to
applications filed by them and others claiming to be equally placed, under
Section 70(B) of the Act in the office of Tehsildar, Thane for such
declaration. After several ups and downs with reversals in fortunes, the
Maharashtra Revenue Tribunal (hereinafter also referred to as "the

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A Tribunal”) interfered with the decision of the Sub-Divisional Officer, Thane Division, Thane and remanded the matter to the concerned tenancy authority for a fresh round of scrutiny on facts. By the ruling assailed in the present Special Leave Petition, the High Court of Judicature at Bombay has set at naught this determination of the Tribunal and has rejected the claim of the petitioners.

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3. Though at the first instance, 124 Special Leave Petitions had been filed, this Court by order dated 04.05.2016 has dismissed all except 36 therefrom, as only in the surviving special leave petitions, the petitioners therein had ventured to offer documents in support of their claim. This was more so, as by earlier orders dated 11.07.2014 and 14.03.2016, the
C petitioners were required to produce documents to substantiate their claim of tenancy under the Act as on the Tiller’s Day i.e. 01.04.1957. Be that as it may, the instant scrutiny, as a corollary, is limited to the aforementioned 36 special leave petitions.

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4. As referred to hereinabove, the petitioners and others claiming themselves to be tenants in respect of the plots involved did file individual applications under Section 70(B) of the Act before the Tehsildar, Thane seeking declaration of their status as such. The Tehsildar acceded to the prayer made and allowed the applications. Being aggrieved, the respondents-landlords questioned the tenability of this decision before
E the Assistant Collector, Thane by invoking the latter’s revisional jurisdiction. The Revision Petitions filed by the respondent/landlords were allowed and the matters were remanded to the Tehsildar, Thane for a fresh adjudication. Significantly after such remand, the petitioners and other tenants filed amendment applications modifying their averment of being in cultivating possession of their plots for 20-22 years. In their
F amended pleading, they asserted to be in such possession for last 40-45 years.

5. The Tehsildar vide his determination made in the year 2001 again allowed the applications of the petitioners and others holding them to be protected tenants in respect of the plots involved. In course of
G such adjudication, the Tehsildar made site inspections of the land and also noted the standing paddy cultivation thereon. This revenue authority also recorded that the petitioners had been cultivating the plots prior to 01.04.1957. Their status of protected tenants under the Act was thus declared.

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6. The respondents/landlords next took the challenge before the Sub-Divisional Officer, Thane by filing equal number of appeals, which were allowed between December, 2002 to 2005 observing that no sufficient evidence had been adduced by the petitioners and other applicants in support of their status of tenants. A

7. The petitioners and others, in their relentless pursuit moved the Tribunal for invocation of its revisional jurisdiction. The Tribunal, by a common order, set aside the orders passed by the two lower forums and remanded the contest to the Tehsildar to decide the issues afresh by permitting the parties to lead evidence. B

8. The respondents-landlords next invoked the writ jurisdiction of the High Court to lacinate this adjudication of the Tribunal and to reiterate by the verdict impeached herein, the impugment was upheld and the revision applications filed by the petitioners before the Tribunal were dismissed in entirety. C

9. As the text of the decision oppugned herein would reveal, the High Court noticed amongst others, that the applications filed were all in a cyclostyled form which did not adequately contain the particulars of the lands. That the amendment applications did not contain the required endorsements to indicate the dates on which those had been submitted and taken on record, was noted as well. It took noticed too, that by such amendment applications, an attempt had been made to enhance the duration of cultivating possession of the petitioner from 20-22 years to 40-50 years. It recorded the finding of the Tribunal that except the 7/12 extracts/mutation entries for the year 1982-83 showing the names of 25 persons as cultivators and some mutation entries in the names of the legal representatives of the corresponding original applicants, no other document had been produced. That all the applicants had not examined themselves was marked as well. The High Court recorded that on the basis of the materials available, the Tribunal had disbelieved the contents of the applications submitted in the cyclostyled forms. It noticed the observation of the Tribunal that the documents/records sought to be produced before it (Tribunal) had not been offered in the earlier rounds of enquiry and that too without any explanation. The conclusion of the Tribunal that though there were documents referring to agricultural lands with survey number thereof along with the particulars of the applicants as cultivators but the same were not relatable to the disputed lands was also taken in consideration. D
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A 10. The High Court thus, on a scrutiny of the available datas,
disapproved the direction of the Tribunal, in spite of its above findings, to
remand the matter to the concerned revenue authorities for a fresh round
of audit of the rival assertions by allowing the parties to adduce fresh
evidence. According to it, if notwithstanding the several arduous baults
B of the parties, spanning over three decades, the factum of possession of
the petitioners of the plots involved as on the Tiller's Day, as agriculturists,
could not be demonstrated by valid evidence, there was no justification
for the remand, as ordered by the Tribunal. The revision petitions filed
by the petitioners were therefore dismissed as a whole, decisively affirming
for all intents and purposes, the findings of the first appellate authority
C i.e. Sub-Divisional Officer, Thane, negating the claim of the petitioners.

 11. Before this Court, in terms of the order dated 11.07.2014,
additional irreconcilable pleadings have been exchanged by the parties
in the special leave petitions, presently under consideration, so as to
identify per se the plots involved by their particulars in the revenue records
D with those claimed by the petitioners.

 12. Whereas, it has been assiduously urged on behalf of the
petitioners that the High Court, without advertng to the essential and
important aspects addressed by the Tribunal and the reasons cited by it
had interfered with its order of remand and that having regard to the
cause of social justice, which the petitioners seek in terms of Section
E 70B of the Act, the enquiry, as directed, ought to be permitted, it has
been emphatically urged on behalf of the respondents that the claims of
the petitioners are expressly false, frivolous and fictitious warranting
summary dismissal of the special leave petitions. It has been insisted on
behalf of the respondents that the petitioners, in spite of several
opportunities granted, had utterly failed to produce any proof, oral or
F documentary to establish their status of protected tenants under the Act
and therefore, this protracted controversy ought to be awarded a final
quietus for all times to come. It has been maintained that the original
tenancy applications of the petitioners were on the basis of gut numbers,
G whereas the 7/12 extracts/ mutation entries presently produced by them,
contain survey numbers and that one does not correspond to the other.
In course of the arguments, our attention has been drawn to several
instances of the mis-match between the gut numbers and the survey
numbers, provided by the petitioners in respect of the plots claimed by
them.

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13. Noticeably, in the chart appended by the petitioners to the written arguments laid for our perusal, the above demurral of the respondents is writ large on the face thereof. There are several instances in the chart submitted by the petitioners exhibiting the inconsistencies pointed out by the respondents. The admission of the petitioners amongst others is also that wrong gut numbers had been mentioned in the initial applications. This chart of the petitioners patently demonstrates that though the original applications were made on the basis of gut numbers, the 7/12 extracts and mutation entries, as mentioned in their additional affidavit, do refer only to survey numbers. To reiterate, though the petitioners have sought to relate the survey numbers with the gut numbers, it is hyaline clear that those do not match in most of the cases with the particulars referred to in their applications. The explanations offered by the petitioners on the basis of their possession of the plots involved, in spite of the above anomalies involved highly disputed and contentious questions of facts. Having regard to the prolonged backdrop of the litigation and the several rounds of enquiries already undertaken, we feel disinclined in the overall fact situation, to interfere with the well considered decision of the High Court. The petitioners, according to us, have failed over the years, in spite of several opportunities, to prove their claim of protected tenants under the Act, by producing consistent convincing and cogent evidence in support thereof.

14. Judged in the totality of the attendant facts and circumstances, we are of the unhesitant view that the impugned judgment of the High Court does not merit any interference. The Special Leave Petitions are thus dismissed. Cost easy.