

**BEFORE THE PRESIDENT, MAHARASHTRA  
REVENUE TRIBUNAL, MUMBAI**

**TNC/REV/RAG/76/21**

Yakub Baig Trust Panvel  
Erstwhile Mominpada Masjid Yakub Baig Trust  
Through its Trustees

1. Imran Salim Khan
2. Yusuf Khan Akabar Khan
3. Allabaksh Appalal Khan
4. Muhammad Tasalim Mahammad Hussain (Trustee)  
R/o. Mominpada, M.G. Road,  
Tal. Panvel, Dist. Raigad

Applicant/s

V/s.

Shri. Maruti Jagannath Disle  
R/o. Khanav, Tal. Panvel, Dist. Raigad

Respondent/s

**TNC/REV/RAG/80/21**

Yakub Baig Trust Panvel  
Erstwhile Mominpada Masjid Yakub Baig Trust  
Through its Trustees

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2. Yusuf Khan Akabar Khan
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R/o. Mominpada, M.G. Road,  
Tal. Panvel, Dist. Raigad

Applicant/s

V/s.

Shri. Maruti Jagannath Disle  
R/o. Khanav, Tal. Panvel, Dist. Raigad  
And

Respondent/s

Shri. Gopinath Gotya Bhoir  
R/o. Khanav, Tal. Panvel,  
Dist. Raigad -410206

Third Party/Opponent

Shri. Sachin Punde, advocate for the revision applicant.

Smt. Sarika Shetye, advocate for the respondent

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.  
Heard on :13<sup>th</sup> January,2023  
Dictated/Pronounced on:- 19<sup>th</sup> January,2023  
Transcribed on :- 20<sup>th</sup> January,2023



**-: JUDGMENT:-**

1. Heard finally.
2. The Ld. Sub Divisional Officer, Panvel rejected Appeal of the Landlord by order dated 2<sup>nd</sup> March, 2020, and confirmed order of Ld. Tahsildar & A.L.T. Panvel dated 13<sup>th</sup> June, 2017, in both the revisions, whereby right of purchase to the Respondent was confirmed. A joint pursis duly signed by Advocates was tendered requesting to decide the revisions by a common judgment and order.
3. Description of suit property:- Land Survey No/Hissa No. 11/2A, admeasuring 1-14-5H.R + Pot Kharaba 00-17-8H.R. Revenue Assessment 5.91Rs. and Land Survey No.11/1 admeasuring 01-82-6H.R. + Pot Kharaba 00-29-1H.R. Revenue Assessment 26.84Rs. situated at Khanav, Tal. Panvel, Dist. Raigad.
4. The respondent approached Ld. Additional Tahsildar & A.L.T. Panvel with a request to fix purchase price and accept the same as provided U/s. 32G of the Tenancy Act 1948. The Respondents as tenant pleaded that their predecessor was cultivating the suit property as a Tenant prior to 01-04-1957. He had enclosed 7/12 extract and six mutation entries effected time to time. There was report of Talathi also certifying possession of the Respondent to the suit property. The reference of Gazette dated 13<sup>th</sup> March, 1953 about entry of the Respondent was also tendered. Earlier application for fixation of purchase price was made on 30/10/1967 by Balaram Baglya Desale while in the matter of Maruti Desale (Revision No. 76/21), the mutation entry was ~~dated~~ <sup>dated</sup> 401 dated 23/05/1968 about postponement of the purchase price.
5. The applicant Trust, challenging the order of both the authorities conveyed that it is a Registered Public Charitable Trust and it has legitimate exemption certificate issued U/s. 88B of the Tenancy Act 1948 concerning the suit property. There is judgment of District Judge Colaba dated 10/11/1952, wherein scheme of the Trust formulated and in 2004 name of the Trust was amended. The applicants stated, that it is not tenanted property never let out for crop cultivation to any person. Revenue authority illegally recorded name of some of the person who are neither Tenant nor they are cultivating the suit property.

*AW*

6. After hearing both the Ld. Advocate perusal of record and notes following points arise for my consideration.

1. Whether the order of Ld. Sub Divisional Officer, Panvel in both matters dated 2<sup>nd</sup> March, 2020 required interference?
2. Whether the order of Ld. Tahsildar, Panvel dated 13<sup>th</sup> June, 2017, was incorrect or there was failure of appreciation of fact?

My findings to above points are :-

1. No interference required.
2. No mistake in order of Ld. Tahsildar, Panvel, nor failure in appreciation of document is noticed.
3. Revisions dismissed, for following reasons.

### **REASONS**

7. The arsenal to squeeze claim of the Respondent as a Tenant is so called exemption certificate U/s. 88B of the Tenancy Act 1948 issued in favour of Landlord. Such certificate was never produced either in these proceedings or earlier proceedings of 1961, 1967, 1968. In other group matters between other Tenants also it was recorded that the Trust has miserably failed to establish existence and grant of exemption certificate U/s. 88B of the Tenancy Act 1948. Earlier enquiry if any by Ld. Tahsildar would not eclipse or decline rights of the Tenant to urge for fixing purchase price and remittance thereof. The Ld. Tahsildar, even was not apprised of such exemption certificate, only a reference thereof was made and the Ld. Tahsildar, Panvel and the Ld. Sub Divisional Officer, Panvel rightly observed that there did not exist exemption certificate in favour of the Trust to exclude the suit properties from clutches of Tenancy Act 1948. No notices ever were issued and received by the respondent about proceeding U/s. 88B of the Tenancy Act 1948 taken up by the Trust. The legal position in the matter of Hirabai V/s. Rayat Sikshan Sanstha, indicate "*it is now well settled that when valuable property rights of the parties are affected, irrespective of the fact that whether statute specifically provides a notice of inquiry, the Forum is duty bound to serve notice upon the persons whose rights are going to adversely affected.*" This has not been complied by the Trust the Applicant.

8. The suit property at Khanav, Survey No. 11/1 and Survey No. 11/2A were enjoyed by Dagadu Rama Desale, as a Tenant



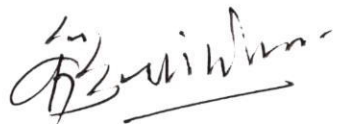
reflected in 7/12 extract, also find its reference in the extract of Block Gat statement. The cultivation from 1958-59 clearly ~~the~~ <sup>was</sup> showed enjoyment of the Tenant. After death of Dagadu Rama Desale, Mutation No. 608 were taken place. An objection was raised by Gopinath Gotya Bhoir, Bhau Babu Patil, Maruti Dadu Patil on 30/09/2015 before the Ld. Tahsildar for fixing purchase price, however, since they had no role, hence Ld. Tahsildar did not entertain such objection. The Tenant has time to time paid revenue assessment, rentals to the Landlord. There is difference of some agricultural Survey numbers in the receipts however, that would not create doubt about manner and bonafides of remittance by the Tenant to the Landlord.

9. Mutation Entry No. 718 shows by order dated 18/11/1997 name of other Tenant was directed to be deleted, however, name of the Respondent as a protected tenant was confirmed and continued, which also eased the Tenant to apply for relief U/s. 32G of the Tenancy Act 1948.
10. The deliberation of the events and the documents, unquestionably establish that the Respondent through predecessor was a protected tenant prior to 1/4/57 and no mistake was committed by the Ld. Tahsildar, Panvel on 13/06/2017 in fixing purchase price and remittance thereof by the Tenant. Ld. Sub Divisional Officer, Panvel, properly evaluated the record to accept finding of fact recorded by Ld. Tahsildar, Panvel. This answer point no. 1 to 3 accordingly.

### **ORDER**

1. Revision No. TNC/REV/RAG/76/21 & TNC/REV/RAG/80/21 are dismissed.
2. The order of Ld. Sub Divisional Officer, Panvel dated 2<sup>nd</sup> March, 2020 and order of Ld. Tahsildar, Panvel dated 13<sup>th</sup> June, 2017 is confirmed.
3. No costs.

Place :Mumbai  
Dated:19/01/2023

  
( Justice K.U.CHANDIWAL,(Rtd))  
President  
Maharashtra Revenue Tribunal,  
Mumbai