

SUPREME COURT OF INDIA

Abdul Ajij Shaikh Jumma

Vs.

Dashrath Indas Nhavi

C.A.No.968 of 1973

(M. P. Thakkar and B. C. Ray, JJ.)

27.11.1986

JUDGEMENT

THAKKAR, J.:-

1. The Maharashtra Revenue Tribunal (Tribunal) by its judgment under appeal has taken the view that the respondents are entitled to claim the rights conferred by S. 32(IB) of the Bombay Tenancy and Agricultural Lands Act, 1948. The Tribunal has recorded the finding that on the 'appointed day', that is to say, on June 15, 1955, the father of the respondents who was the tenant in respect of the lands in question at the material time was in possession of the lands but that he had been later on dispossessed otherwise than in accordance with law. The contention raised by the appellants before the Tribunal that the tenant had surrendered the lands in accordance with law on February 21, 1955 and that he was not in possession of the lands in question on the appointed day (June 15, 1955) was repelled by the Tribunal. This very contention has been reiterated before us on behalf of the appellants in this appeal. We agree with the reasoning and conclusion of the Tribunal that surrender could have been made lawfully only under S. 15 read with S. 29(2) of the Bombay Tenancy and Agricultural Lands Act, 1948 (BTAL Act) as it stood at the material time. There was no such order passed by any competent authority under the BTAL Act. evidencing the surrender in accordance with the provisions of the Act. Under the circumstances the submission urged by the appellants that

the tenant had surrendered his tenancy in favour of the appellants on February 21, 1955 cannot be acceded to or sustained. Such being the position the appellants cannot succeed. The appeal, therefore, fails and is dismissed with no order as to costs. The interim stay granted by this Court earlier will stand vacated. The Revenue authorities under the BTAL Act are directed to ensure that the respondents are put in possession of the lands in question as early as possible and in any case before the expiry of six months from today subject nowever to the liberty to the appellants thereto before to remove their standing crops, if any.

Appeal dismissed.