

Laxmi Bai

Vs

Dayanu Narayan Mohite (dead) through L.Rs.

Civil Appeal No. 1150 of 1978

(M. H. Kania, R. M. Sahai JJ)

09.10.1991

JUDGEMENT

KANIA, J.:-

1. The facts found in this appeal show that the appellant, Laxmi Bai, was at the relevant time a member of a joint family with her son, the partition pleaded by the appellant not having been accepted as genuine by the authorities concerned. She terminated the tenancy of the predecessor in title of the respondents by a notice dated June 24, 1960. Under the provisions of S. 32 of the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as "the said Act"), April 1, 1957, was declared as the Tillers day and S. 32 of the said Act provided inter alia that the tenants of the land who fell within any of categories described in subsection (1) of the said section were deemed to have purchased the land held by them as tenants from their landlords, free of all encumbrances subsisting thereon on the said day. The case of the appellant is that, in the present case, the Tillers' day was postponed in view of the provisions of clause (a) of subsection (1) of S. 32F of the said Act, as she was a widow and hence, it must be held that she had terminated the tenancy of tenant, Dayanu, the predecessor in title of the respondents before he became a deemed purchaser of the land. It is not possible to accept this contention in view of the proviso to subsection (1) of S. 32F of the said Act which provides, inter alia that the Tillers' day would not get postponed where the widowlandowner is a member of a joint family, one of the members whereof was outside the protected categories mentioned under clause (a) of sub-section (1) of S. 32F of the said Act. In the present case, there is no dispute that the son of the appellant who was joint with her did not fall within any of the categories referred to in clause (a) of subsection (1) of S. 32F of the said Act. In these circumstances, Dayanu became the owner of the said land on the Tillers' day as a deemed predecessor and the appellant lost her rights in the said land . Notice given thereafter is of no avail.

2. The appeal fails and is dismissed with no order as to costs. Appeal dismissed.

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