

Shantabai Vithal Patil (dead) by Lrs. and Others

Vs

Ambaji Laxman Thakur (dead) by Lrs. and Another

Civil Appeal No. 5297 of 1992

(G.T. Nanavati, S.P. Kurdukar JJ)

14.10.1998

JUDGMENT

NANAVATI, J. -

1. This appeal is filed by the heirs of the landlady against the judgment and order passed by the High Court of Bombay in Writ Petition No. 3682 of 1981. The High Court dismissed the writ petition filed by them because the Tehsildar, Alibag, the Sub-Divisional Officer, Alibag and the Maharashtra Revenue Tribunal have recorded a concurrent finding that the landlady after obtaining possession from the tenant under Section 31 of the Bombay Tenancy and Agricultural Lands Act, 1948 had ceased to cultivate the land personally within the period of 12 years and therefore the original tenant has become entitled to get back possession of the said land.

2. After going through the record, we also find that the said finding is not only supported by the material on record but is also correct. In the record of rights, in Form No. 12, it is clearly recorded that Pushpalata, married daughter of the landlady, had cultivated the land in 1973 and 1974. That would mean that the landlady was not cultivating the land personally after obtaining possession of it from the tenant. The Tehsildar, therefore, was justified in allowing the application for possession filed by the tenant under Section 37 of the Act. The appeal, the revision and the writ petition were rightly dismissed. This appeal is dismissed with no order as to costs.