

Rangnath Vishnu Mulluck and Another

Vs

Vithoba Rama Rahane and Others

Civil Appeal No. 9101 of 1996

(G. T. Nanavati, S. R. Babu JJ)

10.11.1998

JUDGMENT

NANAVATI, J. -

1. The appellants who were the purchasers from the landlord have filed this appeal against the judgment of the High Court in Writ Petition No. 799 of 1982.
2. The respondent Vithoba was the tenant of nine pieces of lands. In respect of five lands, proceedings were initiated under Section 32-G of the Bombay Tenancy and Agricultural Lands Act, 1948 in the year 1962. On the basis of the statement alleged to have been made by the tenant on 5-8-1962 expressing his unwillingness to purchase those lands, an order was passed declaring the statutory sale ineffective. The landlord obtained possession of those five lands on the basis of the said order. So far as the other four lands are concerned, there was no order in favour of the landlord and yet he took over possession of those lands also. The tenant, therefore, filed an application under Section 84 of the Act for summary eviction of the landlord from those lands. The Agricultural Lands Tribunal dismissed the same on the ground that the proper remedy for the tenant was to make an application under Section 29 of the Act and not under Section 84. The appeal against that order was dismissed. The revision application made to the Revenue Tribunal was also dismissed. The High Court allowed the writ petition on the ground that the tenant had not surrendered his tenancy rights in respect of those lands and the landlord had not obtained possession thereof in a lawful manner. Since the landlord was in unauthorised possession of those lands as he had no right to retain the same, the application made by the tenant under Section 84 was held proper and maintainable.
3. In our opinion, the High Court was justified in reversing the orders of the authorities below and allowing the writ petition. The High Court was also justified in passing an order of eviction against the appellants as they had no right to retain possession of the said lands. This appeal is, therefore, dismissed.