
(1965) 11 BOM CK 0006
In the Bombay High Court
Case No : S.A. No. 309 of 1960

Kashirao

APPELLANT

Vs

Chunnibai

RESPONDENT

Date of Decision : 19-11-1965

Acts Referred:

Berar Regulation of Agricultural Leases Act, 1951 — Section 16A, 6

Citation : (1965) 11 BOM CK 0006

Hon'ble Judges : B.N. Deshmukh, J

Bench : Single Bench

Advocate : V.R. Padhye, for the Appellant; J.N. Chandurkar, for the Respondent

Final Decision : Dismissed

Judgement

B.N. Deshmukh, J.—Moat of the facts giving rise to this appeal are not in dispute. The plaintiff-respondent is the owner of survey No. 613/4 of Mourn Yeoda in Daryapur taluq in Amravati district. According to the plaintiff, the defendant-appellant was made a tenant of this land for one year, namely, 1967-58 by a contract of lease, dated 12th June 1957 Exh. P-1. The rent fixed was Rs. 180 payable on 15th December 1957. If it was not paid on the stipulated date, some interest was allowed to be charged. On the same day, namely, 12th June 1957 the defendant executed a surrender-deed Exh. P-2 in favour of the plaintiff. That was a surrender-deed u/s 6 of the Berar Regulation of Agricultural Leases Act, 1951 (No. XXIV of 1951) (hereinafter referred to as the Act of 1951). As a result of this surrender-deed, the defendant ceased to be a tenant of the land from 1st April 1958. Since the defendant did not surrender the possession nor paid the lease-money, the plaintiff filed this suit on 20th June 1958 for both the reliefs. He claimed possession from the defendant and claimed the lease-money together with interest as stipulated in the contract.

2. The defendant raised several defences by a written statement, dated 27th December 1958. So far as the lease amount is concerned, it was stated that the defendant being a protected tenant, rent in excess of four times the land revenue

cannot be charged. It was further stated that he has paid Re. 25 towards the payment of land revenue and he should have been given credit for the same. His main defence was that the defendant became a protected tenant because of the contract made in 1957-58. He was in possession for a continuous period of several years from 1951-52 and every year a fresh kabuliyat was got executed and on some occasions a surrender-deed was also got executed from him. This surrender-deed was a nominal document which was not to be acted upon and this was got executed on giving certain assurances to the defendant that the tenancy will never be terminated in fact and he will be continued year after year. It is also stated that the intention of the plaintiff in getting such surrender-deed was fraudulent as is now apparent from his conduct. It is further stated that the civil Court has no right to decide whether the defendant is a protected tenant or otherwise and the issues relating to the same may be referred to the revenue officers as provided by the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 (No. 99 of 1958).

3. On these pleadings, the parties went to trial. The learned Civil Judge came to the conclusion that Act No. 99 of 1958 did not affect this case and the defendant's contention that the rent could not be charged in excess of four times the land revenue is not tenable. He, however, accepted the fact that the defendant had paid Rs. 23.41 towards land revenue for which credit was to be given, and for the balance amount together with interest a decree came to be passed, So far as possession is concerned, the learned Civil Judge rejected the contention of the defendant that the surrender-deed was a nominal one, that it was got executed fraudulently and that it was got executed by exercise of undue influence and fraud. He also held that there was no necessity to refer any of the issues to the revenue officers as mentioned in section 16-A of the Act of 1951 and the defendant never became a tenant under the provisions of Act No. 99 of 1958. The plaintiff's suit for possession was, therefore, decreed. Being aggrieved by this decree, the defendant filed Civil Appeal No. 161-A of 1959. The appeal was confined to the bar of possession only and the money claim was not in dispute in the appeal. It is also not in dispute before this Court. The learned District Judge negatived all the contentions of the defendant and held that the surrender-deed was genuine and it was not got executed by fraud or undue influence. The defendant had no right of tenancy and he was liable to surrender possession in terms of the surrender-deed. The decree for possession as passed by the trial Court was, therefore, confirmed. Being aggrieved by this decree relating to possession the defendant has filed this second appeal.

4. The first contention which is raised before me is relating to the genuineness or operative force of the surrender-deed Exh. P-2. Shri Padhye argued that this document was got executed fraudulently and it cannot operate to create rights between the parties. He referred to the evidence and said that the defendant is a tenant from 1951-52 onwards and has been on the land continuously year after year. He also referred to two or three kabuliyats and surrender-deeds in the past. Referring to this evidence Air. Padhye argued that the plaintiff had a deliberate

design in getting the documents executed. In respect of the provision of section 6 of the Act of 1951, the plaintiff was exercising undue influence and holding out promises which he never wanted to fulfil. This is the fraud that is played upon the defendant. The defendant was promised that the surrender-deed will not be used against him and his tenancy will be revised. If he wanted a continuous tenancy he must execute the surrender-deed. In the circumstances, Mr. Padhye says that an inference of fraud or undue influence should be drawn. If that is so, then there is no operative surrender deed in this case and the defendant would continue to be the protected tenant of the land for a period of at least seven years from 1957 onwards. If this position develops, it need not be said that the plaintiff's suit for possession would have to be dismissed.

5. So far as fraud is concerned, it is necessary to plead fraud by specifically pointing out the elements that constitute fraud. In the present case, the only particular allegation is that the plaintiff held out a promise to the defendant that his tenancy would be continued year after year only if he executed a surrender-deed. Assuming that such a promise was given and was not subsequently observed, the learned District Judge has considered the effect of the same. This does not amount to fraud. However, even for this beyond the word of the defendant, there is no evidence and the two Courts below have refused to place any reliance upon the evidence of the defendant. It is, therefore, difficult to infer merely from this set of circumstances that a fraud was in fact practised upon the defendant and that the surrender-deed was not a genuine document.

6. Mr. Padhye then argued that this is a document got executed against public policy, and it is an illegal document. It is very difficult to appreciate such an attack on the document. It is true that the effect of section 3 of the Act of 1951 was clearly to make any contract of tenancy for any period extend over a minimum period of five years according to the original Act, and for a period of seven years after its amendment. Section 3 of the Act of 1951, therefore creates a tenancy for a minimum period of seven years and such tenancy is deemed to be a protected lease under definition (h) of section 2 of the same Act. Mr. Padhye argued that the policy of the statute was to create tenancies for a minimum period of five years or seven years irrespective of the contract between the parties. However, this is not the only section which speaks of the policy of law. It is true that by enacting section 3 an attempt is made to give protection to agricultural leases and to extend their life to a minimum period of seven years irrespective of what were the contracts. However the same Act enacted section 6 by which a surrender of the lease by the tenant in favour of the landlord was permitted. This surrender was required to be made by a registered document and that surrender was to be made not less than 30 days before the commencement of the agricultural year. If this is done then from the commencement of the agricultural year next following after such date, the tenant ceased to be a lessee.

7. To my mind, therefore, the total effect of the two provisions of the Act of 1951

is that shorter leases are extended up to a period of seven years provided the tenant does not voluntarily surrender the rights given to him by law. Since the surrender of rights is permitted by the very same statute, it cannot be said that a surrender under the Act is against the law or public policy. If the surrender is not genuine as is being argued, then the effect that follows from such an argument is not under the Act of 1951 but is under the Contract Act. If there is no genuine contract there is no contract at all and, therefore, there is no surrender. It is, therefore, difficult to sustain the argument that the execution of a surrender-deed is by itself something which is unlawful or against public policy.

8. If the surrender-deed is validly executed, then normally it will have to be given effect to. Mr. Padhye says that there are legal impediments even in the way of giving effect to the surrender-deed Exh. P-2. His argument in this behalf is that before 1st April 1958 when the surrender-deed was to become effective, an Ordinance came to be promulgated on 21st September 1957 which is Ordinance No. IV of 1957. This Ordinance gave protection to certain tenants from being evicted from the lands. The provisions of this Ordinance later on merged in Act No. IX of 1958, which is identical in terms. This Act further extended the protection from eviction to certain tenants up to January 1960. Before the protection came to an end, Act No. 99 of 1958 was passed by the then State of Bombay which was to become applicable to the Vidarbha region on 30th December 1958. Before the protection granted by Act No. IX of 1958 came to an end, a further protection was granted by Act No. 99 of 1958. As a combined effect of these provisions, he says that the defendant who is an agricultural lessee cannot be evicted from the land. It would, therefore, be necessary to examine the relevant provisions of these Acts and the Ordinance on which reliance is placed and find out whether they really afford any protection to the present defendant.

9. The first provision that may be taken into account is contained in section 6 of the Act of 1951. The section as it originally stood was as follows:

A protected lessee may, by delivering to the landholder, not less than 30 days before the date of the commencement of the agricultural year, a registered document executed in favour of the landholder surrender his rights and thereupon he shall cease to be a lessee from the agricultural year next following such date.

This was the provision of section 6 before it came to be amended by Ordinance IV of 1957. Under this un-amended section, the only requirement was that a protected lessee had to execute a registered surrender-deed not less than 30 days before the date of the commencement of the agricultural year. If this happened, the rights of the protected lessee came to an end and from the commencement of the succeeding agricultural year, he ceased to be a lessee of the land. His possession, therefore, from 1st April of the next year after the execution of the valid surrender-deed more than 30 days before the commencement of the agricultural year would render him to be a mere

trespasser. The words used by section 6 are that "he shall cease to be a lessee". The person, who was on the land as a lessee and ceased to be a lessee would be none else than a mere trespasser.

10. However, according to Mr. Padhye, Ordinance No. IV of 1957 promulgated on 21st September 1957, would be relevant for the purpose of considering the effect on the alleged surrender in this case. The surrender by the defendant which is now held as valid or otherwise legal is, dated 12th June 1957. It was one of the arguments of Mr. Padhye that the very fact that the execution of the lease and the surrender-deed was on the same day itself indicates a fraud. He says that any contract for a lesser period was deemed to be a contract for seven years under the provisions of section 3 of the Act of 1951 and to limit it to one year by a surrender on the same date would be unlawful.

I do not find any substance even in this approach. Apart from the facts of this case, if one imagines a genuine case where the landlord wants to lease out his land for one year and there is a tenant willing to take it for one year, even if such parties made a contract for one year, by statute it will mean a contract for seven years. But if the lessee does not want to continue for seven years and is willing to terminate the lease after one year, there is the provision contained in section 6. It would, therefore, be a matter of volition between the parties that the two contracts one of lease and the other of surrender are to be executed on the same day or the contract of lease is to be executed on a particular day and the surrender-deed is to be executed on some other day but more than 30 days before the commencement of the next agricultural year. In either case, the effect in law would be the same. From the fact that both the documents are executed on the same day, it is not possible immediately to infer fraud or misrepresentation or undue influence.

11. Mr. Padhye's further argument is that the effect of the amendment of section 6 by Ordinance No. IV of 1957 will have to be taken into account as the Ordinance became effective from 21st September 1957 long before the surrender executed by the defendant was to become operative from 1st April 1958. Ordinance No. IV of 1957 effected certain changes in section 6. Originally, a mere surrender-deed was enough. By the amended section 6, the provision for executing a surrender-deed was retained but it was qualified by certain conditions. It was then laid down by the Ordinance that the surrender-deed would be effective subject to the provisions of that section. The original section 6 was made sub-section (1) of the amended section 6 with proper changes, and sub-section (2) was introduced to point out the conditions which should be fulfilled before a surrender-deed became effective. The first condition that is introduced by the amended sub-section (2) is that the landlord shall give notice of the surrender-deed to the Revenue Officer within eight days from the date of delivery of the registered document under sub-section (1). The second condition is that the Revenue Officer would hold an inquiry in the prescribed manner and satisfy himself whether such a surrender has been voluntarily made by the

protected lessee and he will declare it as voluntary. If such a declaration is given by the Revenue Officer, then the surrender will become effective and the protected lessee will cease to be a lessee from the commencement of the next agricultural year. Under sub-section (4) of section 6 it is further enacted that the Revenue Officer may, in the course of the inquiry under sub-section (2) or otherwise, come to the conclusion that the surrender is not voluntarily made or is made in contravention of the provisions of sub-Sections (1) and (2) and grant such a declaration. On such a declaration being given, the protected lessee will continue on the land if he has not delivered possession till then. If the protected lessee is not found to be on the land and is willing to continue as a lessee on the same terms and conditions prior to the surrender, then the Revenue Officer is authorised to evict any person in possession and restore the land to the protected lessee. Mr. Padhye says that in the present case there is at best a surrender-deed but there is no reference to the Revenue Officer and no inquiry by him as is required by the amended section 6.

12. The provisions of Ordinance No. IV of 1957 do not appear to be retrospective. Even in the amended section 6, the provision relating to surrendering the lease by appropriate document is maintained. However, further protection is afforded to the agricultural leasee in the form of an inquiry by the Revenue Officer regarding the genuineness of the surrender-deed. One of the conditions required for the operation of the amended section 6 is that the landlord has to intimate to the Revenue Officer within eight days from the date of the receipt of the registered document. In the present case, the document has been executed on 12th June 1957. The Ordinance was promulgated on 21st September 1957. It was impossible for any landlord of the present type to intimate the Revenue Officer within eight days from the date of the receipt of the document. From the wording of section 6 even after its amendment, it appears that it is only those surrender-deeds which would be executed on or after 21st September 1957 that would be governed by the amended provisions and the amended section 6 is not retrospective. The present plaintiff, who has obtained a registered surrender-deed in his favour on 12th June 1957 is not governed by the provisions of the amended section 6.

13. Mr. Padhye then referred me to the provisions of clause (3) of Ordinance No. IV of 1957 which ultimately merged in the Bombay, Vidarbha Region Agricultural Tenants (Protection from Eviction and Amendment of Tenancy Laws) Act, 1957 (No. IX of 1958). The provisions of Act No. IX of 1958 are identical with the provisions of Ordinance No. IV of 1957. Clause 3 of the Ordinance is as follows:

3. Bar against eviction of tenants.-Notwithstanding anything in the Berar Regulation of Agricultural Leases Act, 1951 {XXIV of 1951}, or the Madhya Pradesh Land Revenue Code, 1954 (II of 1955), or in any other law for the time being in force, or in any contract, or the judgment, decree or order of a Court, tribunal or authority, no tenant shall during a period of two years from the date of the commencement of this Ordinance be evicted from any land held by him as

a tenant if such tenant tenders, within the prescribed period, to the landlord, or any person acting on his behalf any rent or lease-money due to the landlord in respect of the land for the agricultural year ending on the 31st day of March 1958, and is willing to hold the land thereafter as tenant on the same terms and conditions on which he was holding the land.

Section 3 of Act No. IX of 1958 which is identical terms became effective from 20th January 1958. According to Mr. Padhye clause (3) of the Ordinance suspended delivery of possession from agricultural leases for a period of two years from the date of the Ordinance became effective and Act No. IX of 1958 continued that position for a period of two years when the Act became effective. As a combined result, he says that till 20th January 1958, possession could not be delivered from agricultural leases after the Ordinance and the Act came into force in spite of any law in force including the Act of 1951 or in spite of any contract, judgment, decree or order of the Court, tribunal etc. All orders of tribunals and Courts, all contracts and other documents under the Act of 1951 are superseded by the provisions of clause (3) of the Ordinance and section 3 of the Act and absolute protection for a period of two years has been granted to lessees from being evicted from lands.

14. Under this provision, he says that the present defendant who continued to be a tenant at least till 31st March 1958, was protected and no delivery of possession of the land could be enforced against such a tenant. On the wording of the section of the Act of 1951, there is no doubt that in spite of a valid surrender-deed u/s 6. a protected lessee continues to be a lessee till the end of the current agricultural year when the lease-deed is executed and he ceases to be a lessee only from the beginning of the next agricultural year. There is, therefore, no doubt that the present defendant continued as a tenant on the land till 31st March 1958, though he surrendered voluntarily the rights of a protected lessee which were given to him by the statute. There is also no doubt that the tenants who were given protection under clause (3) of the Ordinance or section 3 of the Act were those tenants who were on the land when the Ordinance came to be promulgated, namely, 21st September 1957 or when Act No. IX of 1958 became effective, namely, 20th January 1958, On both these dates, the defendant was admittedly on the land and was a tenant in spite of the surrender-deed. However, the further question to be investigated is whether the present defendant is entitled to the protection given to him by the provisions of clause (3) of the Ordinance or section 3 of Act No. IX of 1958.

15. The protection granted either by the Ordinance or Act No. IX of 1958 is not to every tenant. The protection is qualified and is restricted to certain tenants only. Only those tenants are protected who tender within the prescribed period to the landlord or any person acting on his behalf, any rent or lease-money due to the landlord in respect of the land for the agricultural year ending on the 31st day of March 1958 and who are willing to hold the land thereafter as tenants on the same terms and conditions on which they were holding the land. Three

conditions, therefore, must be satisfied by a person before he can claim protection under clause (3) of the Ordinance or section 3 of Act No. IX of 1958. A person who seeks protection under these provisions must be a tenant in the first instance on the land on the date when the Ordinance or Act No. IX of 1958 came into force. In the second place, he must have tendered the rent or lease money that is due to the landlord either to the landlord himself or to some person on his behalf on or before 31st May 1958. The third condition is that such a person must be willing to continue as a tenant on the same terms and conditions on which the land was held before 31st March 1958. If these three conditions are satisfied, then and then only the protection afforded by these provisions would be available. In the present case, the defendant does satisfy the first condition of being a tenant on the land when either of these provisions, namely, the Ordinance and Act No. IX of 1958, was promulgated or enacted. The defendant has nowhere stated that he was willing to continue on the land on the same terms and conditions as before. But from the fact that he is agitating the question relating to possession it may be assumed that he was always willing to continue on the land on the same terms and conditions as before. However, the present defendant does not seem to satisfy yet one more condition which must be satisfied before protection could be claimed. He has not paid or tendered the lease-money or the rent before 31st May 1958 which was the prescribed date according to the rules framed under the Ordinance. The rules under clause (6) of Ordinance No. IV of 1957 were published by Notification No. TNC-5857/128700-(b)-M in the Bombay Government Gazette, dated 10th October 1957, Part IV-B. Rule 3 relates to the period for payment of rent or lease-money u/s 3. The payment of rent or lease-money u/s 3 is required to be made on or before the 31st day of May 1958. This obviously has not happened in the present case.

16. The suit itself was tiled on 20th June 1958 and in this suit besides possession arrears of rent for the year 1957-58 are claimed. They are claimed as per the contract, namely, Rs. 180 together with interest as the amount of Rs. 180 was payable under the lease-deed on 15th December 1957. In the written statement of the defendant, two pleas are raised so far as the non-payment of rent is concerned. In paragraph 1 of the written statement it is admitted that the contract was for Rs. 180. In paragraph 2 of the written-statement it is stated that the defendant has paid Rs. 25 towards the land revenue and he must be given credit for the same. At the final hearing, the Rs. 23.41 and to that extent credit was given. It appears that there was no other plea in the original written statement so far as rent is concerned. By an amendment to the written statement, some additional pleas relating to the protection as a protected lessee were raised. In the added paragraph, it is urged that the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 (No. 99 of 1958) applies to the facts and circumstances of this case, and according to section 11 of that Act the lease money could not be more than four times the and revenue on the land.

17. I have exhaustively pointed out these pleading for the purpose of finding out

whether there is any plea that the lease money which was due was ever offered before 31st May 1958. By the expression "lease money due" it may be possible in a given case to argue that the money due was only four times the land revenue and not the contractual amount. Even that amount has got to be paid under the provisions of section 3 of Act No. IX of 1958. What is contemplated by section 3 of Act No. IX of 1958 is the actual payment or tender to the landlord or somebody on his behalf and that payment or tender has got to be of the money due. In the pleadings there is no reference to any such offer of either the contractual amount or the amount due as calculated by the defendant. Not only that, but after a decree comes to be passed for a money claim, that claim is not further agitated in any of the Courts above. If the tender was in fact made. I am sure that a plea would have been taken that because of the proper tender interest should not be allowed from the date of tender. The plaintiff has claimed interest as stipulated in Exh. P-1 up to the date of the filing of the suit, namely, 20th June 1958. Mr. Padhye argued that this position was not particularly present in the minds of the parties and, therefore there is no evidence or specific plea anywhere. It is difficult to assume whether such a thing was or was not present in the minds of the parties. However, in the pleadings that have come before the Court there is no reference to this point. The defendant sought protection against eviction and every kind of statute has been referred to which could afford protection to the defendant. The amended section 6 of the Act of 1951 as also the subsequent tenancy legislations have been referred to in the pleadings. It cannot therefore, be said that the provisions of the various statutes which were passed from time to time and which could afford protection to the defendant against eviction were not examined before the pleading was drafted in this case. In spite of this position, if we find that there is no specific plea, on the contrary the plea is that the amount is correct because of the payment of land revenue by the defendant, then it is not possible now to countenance the argument that evidence has not been led or pleading has not been made because the fact was not present in the minds of the parties. It may be that the law was not present in the minds of the parties, but the facts of the case were within the knowledge of the parties and they have pleaded them. On the facts as pleaded and the circumstances that are apparent from the record, I am inclined to think that this is a case where the defendant made a default in the payment of rent and never offered any amount at all before 31st May 1958 to the landlord or someone else on his behalf.

18. If the protection afforded by section 3 of Act No. IX of 1958 is only to those tenants who have made payment of the arrears of rent or lease-money before the prescribed period, namely, 31st May 1958, then the defendant is not a person, who is entitled to any protection under the provisions of that Act. The position, therefore, that develops is that there was a surrender under the provisions of section 6 before its amendment and that surrender appears to be valid and effective from 1st April 1958. The protection restricted to the non delivery of possession was sought to be given by the statute to some tenants

and the present defendant could have come within the description of those tenants, but he has failed to do so by not availing himself of that facility by making payment of the arrears of rent before 31st May 1958. So far as the present defendant is concerned, on the date when the suit came to be filed, there was no statute which saved him from delivery of possession and, therefore, it appears that a decree for possession has got to be passed.

19. Mr. Padhye's argument also is that the protection under Act No. IX of 1958 continued till 20th January 1960 and before that date Act No. 99 of 1958 came into force. In this Act there are provisions which, according to Mr. Padhye would help the present defendant in retaining possession. According to him, the defendant becomes a tenant of the land in view of the definition of "tenant" in clause (32) of section 2. The definition is as follows:

"tenant" means a person who holds land on lease and includes-

(a) a person who is deemed to be a tenant under sections 6, 7 OF 8,

(b) a person who is a protected leasee or occupancy tenant, and the word "landlord" shall be construed accordingly.

One of the ways in which a person could become a tenant is the deemed tenancy u/s 6. u/s 6 it is laid down that a person who lawfully cultivates the land belonging to another shall be deemed to be a tenant of the land and only three exceptions are made to this lawful cultivation. If the person concerned is a member of the owner's family, or a servant on wages payable in cash or kind but not in crop share or a hired laborer cultivating the land under the personal supervision of the owner or any member of the owner's family, or is a mortgagee in possession, then he does not become a tenant though he is lawfully cultivating the land belonging to another. Mr. Padhye argues that the present defendant was in lawful cultivation of the land of the plaintiff when Act No. 99 of 1958 came into force. For this purpose his anxiety again is to point out that the defendant may have become liable to eviction as an effect of the surrender-deed executed u/s 6 of the Act of 1951, but due to Ordinance No. IV of 1957 and Act No. IX of 1958 he could not be evicted. His continuance on the land is, therefore, lawful. Unfortunately, the defendant in the present case is not entitled to seek protection of the provisions of the Ordinance and Act No. IX of 1958. If he had made payment of the rent before 31st May 1958, he was entitled to protection. In that case, though the landlord had a right to seek possession, the tenant was protected by a statute and, therefore, his continuance on the land could have become lawful.

20. Mr. Padhye then argues that even if the statutory protection is not available under Act No. IX of 1958, the defendant was admittedly a tenant till 31st March 1958 and, thereafter he would become a tenant holding over. Even the possession of a tenant holding over is lawful possession and, therefore, the tenant holding over would be in lawful possession of the land belonging to another u/s 6 of Act No. 99 of 1958. So far as this argument is concerned, I am

afraid the wording of section 6 of the Act of 1951 itself goes against the defendant. The result of the surrender as laid down by the section is to put an end to character of the defendant's possession. It lays down that the defendant shall cease to be a lessee. The only contract on which he came on the land was a lease contract and the statute says that after a valid surrender he shall cease to be a lessee. His possession, therefore, becomes that of a trespasser. Even the tenant holding over is more or less a trespasser though he is described as a tenant holding over. According to the effect of the provisions of section 6 of the Act of 1951, I am inclined to think that the defendant became a mere trespasser, who is liable to be evicted by the landlord-owner and that position develops from 1st April 1958 in the facts and circumstances of this case. When Act No. 99 of 1958 became applicable to the Vidarbha region, unfortunately the present defendant was not a person who was in lawful cultivation but was in unlawful cultivation. He cannot, therefore, be deemed to be a tenant under the provisions of Act No. 99 of 1958.

21. Mr. Padhye then refers me to the provisions of section 10 of Act No. 99 of 1958. I do not see how these provisions really apply to the facts of the present case. The amended section 10 now postulates that a person who was a tenant on 1st January 1953 or thereafter and who has subsequently been dispossessed by surrender of tenancy before the date of the commencement of this Act, is authorised to apply within a period of one year from the date of the commencement of the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) (Amendment) Act, 1960, to the Tahsildar for restoration of tenancy. When such an application is made, the Tahsildar is authorised to inquire whether the original surrender was voluntary and otherwise legal and valid. If he found that it was not so, then he is authorised to restore possession to the lessee on the same terms and conditions on which he was holding the land before surrender. In the present case, there is no dispossession yet. Mr. Padhye argues that even if the section does not bodily apply because actual possession has not yet been delivered and the period of one year from 1960 has already expired, the policy of the legislation should be taken into account for affording protection to the present defendant. It seems to be the intention of the Legislature to grant protection to such a defendant. It is difficult to countenance such an argument. The provisions of any statute must be given their natural meaning, and unless a particular person is covered by any specific provision, a specious argument of the policy of legislation being such and such cannot be of any avail.

22. Mr. Padhye then refers me to the provisions of section 132 of Act No. 99 of 1958. Here also I think that his client is not entitled to any relief. His argument basically was that the defendant had a right to remain on the land under the provisions of Ordinance No. IV of 1957 and Act No. IX of 1958, and these rights are saved by the provisions of section 132 of Act No. 99 of 1958. I have already pointed out that the defendant in the present case is not entitled to any protection either under Ordinance No. IV of 1957 or Act No. IX of 1958. That being so, the plaintiff has acquired a right to obtain possession because of the

surrender u/s 6 of the Act of 1951. The effect of section 132 of Act No. 99 of 195S would be to save this right and the remedy in that behalf from being affected by the passing of Act No. 99 of 1958.

23. I am, therefore, inclined to think that the decree for possession passed by the trial Court and confirmed by the District Court is correct and must be upheld. The appeal, therefore, fails and is dismissed with costs.