

(1955) 06 BOM CK 0002

In the Bombay High Court

Case No : Special Civil Application No. 541 of 1955

Shankarrao Madhavrao

APPELLANT

Vs

K.C. Sen and Others

RESPONDENT

Date of Decision : 21-06-1955

Acts Referred:

Bombay Tenancy and Agricultural Lands Act, 1948 — Section 12, 12(5), 6, 74(1), 76

Citation : AIR 1956 Bom 79 : (1955) 57 BOMLR 1023

Hon'ble Judges : Shah, J;Bavdekar, J

Bench : Division Bench

Advocate : V.S. Desai and M.B. Kadam, for the Appellant; K.S. Daundkar, D.M. Parulekar and H.D. Gole, for the Respondent

Judgement

Bavdekar, J.—Tills is an application for a writ of certiorari or an order or a direction quashing the order of the Bombay Revenue Tribunal which refused to entertain an application for revision of an order passed by the Collector on appeal from the determination of reasonable rent by the Mamlatdar.

2. The question which falls for determination is the interpretation of section 12, Subsection (5) of the Bombay Tenancy and Agricultural Lands. Act, 67 of 1948. That Sub-section provides:

"Every order passed by the Mamlatdar under this section if not appealed against, and every order passed by the Collector in appeal shall hold good for a period of five years and shall not be called in question during that period:

Provided that the Mamlatdar or the Collector, as the case may be, may, during the said period of five years--

(i) reduce the rent if on an application made to him by a tenant the Mamlatdar or the Collector, as the case may be, is satisfied that (a) on account of deterioration of the land by floods or other cause beyond the control of the tenant the land has been wholly or partially rendered unfit for the purposes of cultivation, or (b) the tenant has incurred any expenditure on account of improvements made on the

land, or (ii) enhance the rent, if on an application made to him by a landlord the Mamlatdar or the Collector, as the case may be, is satisfied that on account of any improvement made in the land by or at the expense of the landlord the produce of the land is increased."

3. it is contended on behalf of opponent 4 that even though, an order passed by the Collector, on appeal from an order of the Mamlatdar determining the reasonable rent would have been revisable by the Bombay Revenue Tribunal u/s 76, provided the case was shown to fall within any of the Clause (a), (b) and (c) of that section, Section 12, Sub-section (5), has the effect of preventing . an application for revision to the Revenue Tribunal in cases in which that rent is determined by the Mamlatdar and the Collector has disposed of an appeal from the Mamlatdar's order.

Now, it has to be noticed that neither Section 12 Sub-section (5) nor Section 76 contains a non-obstante clause like "Notwithstanding anything contained in section.." if we were to give the interpretation which is sought to be put upon the words in Section 12, it is obvious that there would arise a conflict between Section 12, Sub-section (5), and Section 76; and it is a well established principle of interpretation that as far as possible the various provisions of a statute must be so read as not to bring them in conflict with each other.

That does not mean that reconciliation must be effected. But the various provisions must be so read, if at all it is possible to do so, that they do not conflict with each other. That is especially so when the Legislature itself thought that there was no conflict as it has refrained from using in either section words like "Notwithstanding anything contained in....." which the Revenue Tribunal has pointed out in a later decision have been used 28 times in the Act.

4. Now, in case Section 12, Sub-section (5), had pro-Tided that the order which was passed by the Collector on appeal "shall not be open to revision," or for the matter of that "shall be final," which are the words which are used in some statutes *pari materia*, there may have been difficulty in reconciling the two sections. But the words which Section 12, Sub-section (5), uses are "shall hold good for a period of five years and shall not be called- in question during that period."

Now it is obvious that some reason must be assigned as to why the Legislature should have thought fit to use the words which are being interpreted in Section 12, Sub-section (5), if it did not intend thereby to prevent the application for revision in matters about the determination of reasonable rent. But if we look at Section 8 which contains a similar provision with regard to determination by the Mamlatdar of commutation of crop-share rent into cash rent the reason would be obvious. Section 8, Sub-section (2), provides:

"The amount so determined (the amount of commutation determined by the Mamlatdar) shall not exceed the rent at the maximum rate fixed u/s 6 and shall not be altered for a period of five years from the date on which it was

determined."

And the object obviously was to make the determination by the Mamlatdar binding for a period of five years. If that provision had not found a place in Sub-section (2) of Section 8, it would have been permissible for any party who wished to obtain a variation of the order passed to make in each successive year a separate application for the commutation of crop-share rent in cash rent. It is not contended that those words which find place in Section 8, Sub-section (2) make the Mamlatdar's order final.

As a matter of fact such a contention would not have any chance of success for the reason that Section 74, Sub-section (1), Clause (c), specifically provides that the order of the Mamlatdar would be appealable, and the appeal would lie to the Collector. Similarly the object of the Legislature in enacting Section 12, Sub-section (5), was to make the order which was passed by the Mamlatdar, if it was not appealed against and the order of the Collector in appeal, unrevisable for a period of five years by the Mamlatdar or the Collector to whom an application could have been made for that purpose, but for the opening clause of Section 12, Sub-section (3).

The difficulty which the Tribunal perhaps thought that they had is got over by interpreting Section 12 so as to confine the words "shall not be called in question during that period" to proceedings for revision of the reasonable rent by an application to the Mamlatdar or the Collector during the five years subsequent to the decision of the Mamlatdar or the Collector, as the case may be. It is plain that it would be doing no violence to the language of the Sub-section to read it in this manner.

In our view, therefore, there is nothing in Section 12, Sub-section (5), which detracts from the generality of the words used in Section 76. Under Sub-section (1) of that section, an application for revision lies to the Bombay Revenue Tribunal against any order of the Collector. Those words will necessarily include an order which was passed by the Collector on appeal from an order of the Mamlatdar determining the reasonable rent.

5. We, therefore, quash the order passed by the Revenue Tribunal inasmuch as they have refused to exercise jurisdiction which was vested in them under the law.

6. Opponent No. 4 will pay the applicant's costs of the application.

7. Order quashed.