BEFORE THE MEMBER (JUDICIAL), MAHARASHTRA REVENUE TRIBUNAL, PUNE BEHCH, PUNE

Presided over by : V.B.Kulkarni, Member (Judicial)

No.P/III/4/2015

Smt.Laxmibai Shankar Kavitake
D/H---
1) Shri.Ganpat Sitaram Kavitake
2) Shri.Namdeo Sitaram Kavitake
Both R/o. Indapur, Tal.Indapur, Dist.Pune. …. Plaintiffs

VS.

1) Shri.Shankar Ganpat Salunkhe
D/H---
1a) Gopika Shankar Salunkhe
1b) Narendra Shankar Salunkhe
1c) Vijay Shankar Salunkhe
1d) Ganesh Shankar Salunkhe
All R/o.1200/A, Shukrawar Peth, Pune-2.
1e) Ratnaprabha Badrinath Kale
1f) Kalpana Namdeo Raut
1g) Archana Kashinath Raut
No.1b, 1e to 1g R/o.Telgalli, Indapur, Dist.Pune. …. Defendants
.

Revision Application U/s 76 of the B.T.& A.L.Act,1948.

Appearance :- Adv. Shri Deshpande for Revision Applicants.
Adv. Shri J.P.Dhaytadak for Respondents

DATE:- 13th OCTOBER, 2016

JUDGMENT

1. The applicants-LRs of deceased landlord have preferred the present revision application by invoking the provisions of Sec.76 of B.T.& A.L.Act, 1948 (hereinafter referred "the Act") against the judgment & order passed by the trial court i.e. Sub-Divisional Officer, Baramati Sub Dn.,Baramati (hereinafter referred as the "SDO") in tenancy case No.5/2013, dt.8/1/2015 on the grounds more particularly set out in revision application. Parties hereinafter referred as the Plaintiffs or the Defendants as the case may be as they were before the trial court. Facts giving rise to the present *lis* can be summarized as under.

2. The land S.No.710/8 adm.2H. 90R. situated at Village Indapur, Dist.Pune was originally owned by Smt.Laxmibai Kavitake. One Bhiku Shankar Deshmukh was cultivating the said land as the tenant in possession since prior to the *Tillers Day*. However, as the land was standing in the name of widow Laxmibai on the *Tillers Day* the effect of deemed purchase was postponed during the lifetime of Laxmibai. During the lifetime of Laxmibai the tenant in possession Bhiku and landlord Laxmibai entered into a settlement and thereby a portion of 1H. 65R. sold to the tenant and remaining portion therefrom was left for the landlord. Accordingly, the original survey number divided in two parts as S.No.710/8a & 710/8b since after the effect of settlement between the original tenant & landlord. Area shown in S.No.710/8b entered in the name of Laxmibai as owner and cultivator thereof which is the subject matter of the present suit. The Plaintiffs have specifically contended that during the lifetime of Laxmibai bequeathed the suit property to them under a Will. Shri.Shankar Ganpat Salunkhe has no concern whatsoever in respect of the suit property. However, for the first time in the year 1972-8-73 said Shankar succeeded in mutating his name in the column of cultivation. The said dispute in respect of the column of cultivation gone up to Hon.High Court. However, ultimately the entry in the name of Shankar Salunkhe got confirmed. The said entry is illegal, baseless and not supported by source of interest therefore. As such since 1973 onwards Shankar Salunkhe continued his illegal and unauthorized possession over the suit property. After the judgment & orders in respect of the *lis* for the column of cultivation reached to its finality. After the death of Laxmibai the Plaintiffs became the owner of the suit property. They have filed a suit u/s 84c of the Tenancy Act against the LRs of deceased Shankar Salunkhe. They have specifically contended that neither Shankar Salunkhe had ever any interest in the subject matter for the suit nor the LRs of Shankar Salunkhe have legal right to continue the possession over the suit property. As such since beginning from 1973 onwards the family of Shankar is a unauthorized possession over the suit property. Therefore, on the grounds of facts stated in the Plaint the Plaintiffs have sought order of summary eviction against the unauthorized cultivator and for possession of the suit property on the basis of title.

3. The Defendants have contested the suit by filing their written statement on 2/7/2014 and contested the suit on the grounds stated therein. They have specifically pleaded that they are in lawful possession of the suit property. On the contrary, the Plaintiffs have no legal right to seek the possession u/s 84c of the Act as against the present respondents who are in legal possession thereof. Further they have specifically contended that the disputed of title amongst the applicants and other LRs of Laxmibai is still pending and the applicants have no right to file a suit for eviction and possession of the suit property. Further they have specifically pleaded that the nature of their possession over the suit property as legal one same is confirmed by Hon.High Court , while the dispute of column of cultivation went up to Hon.High Court. Therefore, the possession of the present respondents cannot be turned as unauthorized or illegal. With these pleadings the respondents have prayed for dismissal of the suit.

4. The matter has been tried before the SDO Baramati in tenancy case No.5/2013. The SDO has decided the matter by judgment & order dt.8/1/2015 and thereby, dismissed the suit being barred by limitation. Being aggrieved by the said judgment & order passed by the SDO Baramati the aggrieved applicants / landlords have preferred the present revision application by invoking the provisions of Sec.76 of the Act.

5. Heard Ld.Adv.Deshpande for the revision applicants & Ld.Adv.Dhaytadak for the respondents. Perused the lower court's record. After considering the facts pleaded, evidence laid, documents proved and submissions made by respective advocates, following points arised for my determination. I have recorded my findings with reasons thereon as under :-

	Points	**Answer**
(i)	Whether the Plaintiffs have proved that the Defendants are in wrongful possession of the suit land and as such occupying the same unauthorisely ?	Yes
(ii)	Whether the suit for the summary eviction against the Defendants u/s 84c of the Act is within limitation ?	Yes
(iii)	Whether the judgment & order passed by the SDO is proper, legal & correct ?	No
(iv)	If not, whether it calls for interference therein ?	Yes, as per final order
(v)	What order in respect of future menseprofit and cost of the suit ?	As per final order

Reasons

6. **Point No.1 :-** Before re-appreciating the facts pleaded or otherwise proved on record, at first I may state here that the tenor of the application moved by the Plaintiffs is for eviction of present Defendants who are allegedly in unauthorized possession of the property. As per the settled principle of law and procedure contemplated therefore the proceedings are governed by the provisions of Mamlatdar's Courts Act, 1906. The provisions of Sec.7 to 20 of the Act though are summary in nature, same are in form of gist of CPC, whereby the proceedings are ever controlled by the procedure. The reading of those sections makes it crystal clear that the provisions of pleadings and trial is sufficiently made applicable to the proceedings before the tribunal which are ever governed by the provisions of Mamlatdar's Courts Act though summary in nature.

7. Keeping in mind those provisions, I may quote here that the pleadings put forth by the Plaintiffs are self-explanatory, whereby they have made specific allegations of unauthorized occupation of the land against the Defendants. Admittedly, Defendant has no concern whatsoever with the suit land till 1972-73. Either the land was in possession of original tenant Bhiku Deshmukh, or subsequent to the dispute being settled in between landlord & tenant, the suit property came in possession of the landlord Laxmibai. In short, even as per the case pleaded by the Defendant, he was not ever in possession of the suit property at any point of time before 1973.

8. In the given set of facts, what the case made out by the Defendants in respect of their interest in the disputed land reflects from the pleadings put forth in the say dt.2/7/2014. Bare perusal of these averments made in page-103 to 109 from lower courts record gives an indication that they have nowhere pleaded the relationship with the owner of the property as landlord and tenant. They have nowhere specifically pleaded their interest in the property as tenant in possession. They have simply stated that they have in lawful possession and nothing more. Admittedly, as per revenue record placed before me the entry in the name of Defendant came to be certified in the column of cultivation for the year 1973-74 for the first time and not prior to it. It is pertinent to note here that as per letter dt.31/1/74 which is on record at page-57 entry in the name of Defendants came to be certified in the column of cultivation for the year 1973-74 and i.e. by Circle Inspector, Indapur. While considering the legality of this order I may refer the provisions of Maharashtra Land Revenue Record of Rights and Registers (Preparation & Maintenance) Rules, 1971. The said rules made applicable w.e.f. 6/11/1971. By application these rules for the preparation of revenue record and entry in column of cultivation since after 6/11/1971 dispute regarding column of cultivation has to be certified under the Rule-29 & 30 thereunder. Not only that, but such enquiry shall have to be conducted by the Revenue Officer, not below the rank of the Tahsildar. Furthermore, rules made therein are self-explanatory to the effect, that the enquiry contemplated under these rules is in form of actual possession of the occupant without touching to the nature of the possession and particularly the plea of the tenancy if raised. In short, entries certified in the column of cultivation without following the rules referred supra will not amount valid determination of the tenancy in favour of any person and it should be dealt with under the provisions of Sec.70(b) of the Act. Such enquiry was not ever conducted till this date. Even otherwise though the dispute of column of cultivation reached upto the Hon.High Court and affirmed in favour of the Defendant, nowhere he has raised the plea of tenancy nor he has moved the competent authority to get decided his right of tenancy by raising the dispute u/s 70(b) of the Act. Therefore, mere certification of entry in the column of cultivation will not sufficient to establish relation of tenant and landlord. On the contrary, as observed supra the entry in the year 1973-74 came to be certified by the revenue officer below the rank of Tahsildar is without jurisdiction and nullity in eye of law. In short, continuation of such entry may certify his possession, but will not confer legal right to remain in possession and as the said entry has not been certified by the

competent authority under the Code nor it has been decided by the authorities constituted under the provisions of Tenancy Act.

9. Now, it is pertinent to note here that by positive pleadings, the Plaintiff came with a case that they are the legatee of the original landlord through Will dt.15/3/74 of, which genuineness is upheld by the Probate Court i.e. CJSD Pune in the proceeding No.MA/592/76. Certified copies of those documents are on record at page-39 from the lower courts record. Not only that, but on the basis of Probate issued, M.E.No.4299 came to be certified in the name of present Plaintiff as the owner of the property on 30/6/76. Despite of these facts on record, the Defendants have tried to make a positive statement denying the ownership of the Plaintiff and calling upon them to establish the same without having any interest in their favour. The relevant pleadings are at page-5 to 7 of their written say. In short, without pleading their positive case of tenancy in detail the Defendants are ever egger to deny the ownership of the Plaintiff without any interest in their favour.

10. As observed supra the entry in the column of cultivation, being certified by the authority who is not competent enough as per the provisions of the Code, will not create lawful interest in favour of the Defendants. Not only that, but while raising the plea of the tenancy before this Tribunal, at first I may state here that, pleadings put forth in the written say nowhere discloses details therefore. No documentary evidence has been placed on record as to when, with whom the tenancy has been accrued and what was the agreed rent or mode of rent to the landlord. Even there is no documentary evidence placed on record to establish prima-facie, the relationship of the Defendant as the tenant in possession over the property. It is well settled principle of law that vague plea of tenancy if made does not call upon the Court to frame issue of tenancy. In support of above observations, I may keep reliance on the precedent laid down by our Hon.High Court in the case of ***Pandu Yedurkar Vs. Anand Patil,*** *reported in 1974 Mh.L.J.548.* The preposition of law laid down therein can be summarized as under :-

> *"When a plea is made by the Defendant containing that he is a tenant, the court should hesitate to frame such issue unless the Defendant is able to give particulars showing (i) the time as to when it was created (ii) by whom and with whom it was created (iii) mode of paying rent and other materials therefore. Normally the rules of pleadings requires that there are the minimum particulars which the parties must furnish before asking the court to frame the issue of tenancy."*

11. I have gone through the above precedents very carefully, which guides me to observe here that only after giving such detail particulars if the tenancy issue is raised and call upon to be framed then and then such issue could have been raised and the trial tribunal either would have decided the same or otherwise might have referred the matter to Mamlatdar to decide the nature of tenancy u/s 70(b) of the Act. However, unfortunately no such efforts were made by the Defendant for

raising plea of tenancy by giving details of so called tenancy rights in their pleadings. Therefore, apparently it is crystal clear that Defendants have failed even to raise the issue of tenancy in proper form before the court of first instance. Therefore, for this Tribunal these facts are sufficient to hold that there is no pleadings and proof about the lawful tenancy of the Defendants over the suit property except their entry in the column of cultivation. As observed supra the said entry is not based on any documentary evidence, particularly when it has been created subsequent to the 1/4/1957.

12. Now, while appreciate the evidence either in form of documents or in form of oral evidence, I may state here that bare perusal of 7/12 extracts and certification of so called entry in the name of Defendant, it speaks volume about the nature of the Defendant over the suit property. The nature of tenancy is ever determined by observing scrupulously the mode of cultivation mentioned in 7/12 extracts. The said column is ever referred as rit number. The Code is silent about the details of mode of cultivation. However, while drafting Revenue Manual Author Lord Andorson, has explained the meaning of mode of cultivation Rit No.1,2,3,4,5,6 & 7 as under:-

(1) Rit-1	:	cultivation by owner personally
(2) Rit-2	:	cultivation by owner through labour
(3) Rit-3	:	cultivation by person by paying rent in cash (Khand)
(4) Rit-4	:	cultivation by person by paying share in crop (Batai)
(5) Rit-5	:	mixed mode of cultivation by paying rent in cash partly and share in crop partly
(6) Rit-6	:	cultivation by person through valid source other than mode-3 to 5 for eg. Person in possession on the basis of agreement of sale or mortgagee in possession
(7) Rit-7	:	0 (zero)- unauthorized cultivation

13. If there is no valid mode of cultivation for tenancy, the entry in the column of cultivation ever stands by showing Zero (0) in the column of cultivation. Same mode has been followed against the entry of the Defendant in the column of cultivation from 1973-74 to 86-87 showing Rit-Zero against the name of Shankar Salunkhe. It is for the first time in the year 1988-89 the mode of cultivation as against the name of Defendant shown as 3. However such certification also nowhere discloses valid source therefore, or even pleadings of the Defendant to that effect also silent. Though the litigation was pending in respect of certification of entry in the column of cultivation during the lifetime of Laxmibai up to Hon.High Court, the Defendant has nowhere objected as to why Rit-0 is shown against his name while certifying entry in his name. As observed supra initial certification of entry in the column of cultivation in the year 1973-74 by Circle Inspector, is by the officer below the rank of Tahsildar without having valid authority, therefore, is itself without jurisdiction and nullity. Furthermore, said entry nowhere discloses nature of mode of cultivation in reference to Rit-3,4 & 5 as the case may be. In short, documentary evidence in form of 7/12 nowhere supports the valid source of

interest in favour of the Defendant to have a lawful possession over the property so as to bring the case out of clutches of summary eviction u/s 84-c of the Act. In support of above observations I may keep reliance on the precedent laid down by Hon.Supreme Court in the case of ***Hanmanta Vs. Babasaheb, reported in AIR 1966 SC-223 followed in Abdul Razak Vs. Ibrahim, 2006(1) Mh.L.J.107,*** wherein Their Lordships have ruled as under :

> *"Mere lawful possession over the land did not give rise to an inference of tenancy entries in the revenue record or even payment of land revenue by such person without notice to the landlord will not sufficient to establish the fact of tenancy or relationship between the parties as landlord & tenant."*

14. Now, last but not the list, point for my consideration is the oral evidence placed on record. The Plaintiff has entered in the witness box and submitted his evidence affidavit on record dt.28/7/2014, which is at page-111 in the lower courts record. The evidence affidavit though placed on record has gone unchallenged for the want of cross-examination. It is not the case of the Defendant that chance was not given to them for cross-examination the Plaintiff as against the evidence affidavit filed on record. Even the Defendants name neither entered in the witness box nor they have made available for the cross-examination in support of their pleadings placed on record. It is will settled principle of law, that the pleadings put forth take the place of required proof for establishing tenancy relationship as fact in issue, which is required to be specifically and sufficiently pleaded and proved by independent evidence. Mere saying that the Defendants are not in lawful possession without any evidence or documents will not take the place of proof. In short, except mere possession nothing placed on record by the Defendant in support of their plea of lawful possession.

15. Now while scrutinizing the legality of the judgment & order under revision, I may state here that, the trial tribunal while deciding the matter at hand has not scrutinized the entire documentary evidence placed in front of him. The pleadings put forth and averments laid in form of affidavit which have gone unchallenged, not appreciated by the trial tribunal in its true spirit. Not only that, but the trial tribunal has gone one step furthermore and without deciding the matter on the evidence placed on record, or facts proved, the trial tribunal has recorded its findings only on the point of law of limitation. However, while considering the scope of enquiry contemplated u/s 84-c of the Act which is summary in nature and mode of eviction is given as a speedy remedy, I am of the view that while deciding the revision the revisional court has got every power to appreciate the entire evidence, which has been placed on record, particularly when the respondent / tenants have not challenged the legality of the order which is under revision on the ground of failure of the trial tribunals record the findings and facts proved. So far as the issue of limitation is concerned, I would like to dealt with it independently while deciding the Point No.2 as framed supra. However, inview of the observations made supra, I hold that the trial tribunal has utterly failed to appreciate the pleadings put forth and evidence laid, documents proved in its true spirit and failed to consider the evidential value of revenue record in form of entries

in column of cultivation . On facts the judgment & order under revision does not sustain in eye of law. On the contrary, inview of the observations made supra, it has been duly proved that the Plaintiffs are the owners of the suit property as the legatee of Laxmibai and the Defendants are in wrongful possession occupying the same unauthorisedly. The possession of Defendants over the suit property is not ever supported by legal source of interest or findings of the competent court in their favour. Therefore, summary procedure adopted by the Plaintiff for the eviction of wrongful and unauthorized possessor is perfectly correct and the Plaintiffs are entitled to have an order of eviction against the Defendants by invoking the provisions of Sec.84(c) of the Act. With these observations, I answer the Point No.1 in affirmative.

16. **Point No.2 :-** The main crux of litigation is moving around the issue of Limitation. The advocate for the respondents strongly submitted that though the provisions of Sec.84(c) nowhere contemplates the period of limitation for initiating the proceedings for summary eviction u/s 84(c) of the Act, still then by keeping in mind, "**mandate of the reasonable period" "**it ought to have been initiated within three years and not later than it." In short, the Defendants are in possession of the suit property since 1973-74 onwards. Proceedings came to be initiated u/s 84(c) of the Act in the year 2013 which is absolutely barred by limitation. In support of his submissions Adv.Dhaytadak kept his reliance on following three precedents.

(i) Mohamad Kavi Vs. Fatimabai Ibrahim, reported in 1997 (6) SCC-71

(ii) Santoshkumar Patil Vs. Balasaheb Shevale, reported in 2009 (6) Bom.C.R.644

(iii) State of Gujarat Vs. Patel Raghav Natha, reported in AIR 1969 SC-1297

17. I have gone through the above three precedents very carefully. None of these precedent have got identical facts and circumstances that too the case at hand. While deciding the precedent laid down in case of *Mohamad Kavi (quoted supra),* the Hon.Supreme Court has dealt with the applicability of Sec.84(C) and not that of Sec.84(c). The subject matter of Sec.84(C) is the illegal transfer in contravention of Tenancy Act. As against this subject matter of Sec. 84(c) is the unauthorized occupation without interest. Therefore, the law laid down therein being based on distinct set of facts and under separate provision of the Act is not helpful for the present respondents. So far as the precedent in the case of *Santoshkumar & State of Gujrat (quoted supra),* these two precedents are also based on distinct set of facts, wherein the Hon.Supreme Court has considered the *reasonable period* for invoking the powers of revision by the authorities constituted under the Act. Herein this case, subject matter is of a statutory right of eviction u/s 84(c) of the Act and not invoking the powers of revision by the authorities under the Act. The right u/s u/s 84(C) is the substantive right of the party. As against this revisional powers are with the authority which are supposed to be invoked in a *reasonable period* . Herein this case, substantive provisions u/s 84(c) of the Act,

nowhere laid down any limitation for seeking relief of eviction and possession against the unauthorized occupant who is in wrongful possession of the land. On this touchtone none of the above precedents referred supra is helpful for the respondent so as to bring the *lis* beyond limitation.

18. On the contrary, the advocate for the Petitioner rightly called my attention towards the law laid down by our Hon.High Court in the case of *Laxman Bandgar Vs. Venkat Bandgar reported in 2014 (6) ALL MR-661.*

19. I have gone through the above precedent very carefully. After considering the language used in Sec.84(c) and object of the Legislature, preposition of law laid down by our Hon.High Court on the point of limitation in respect of the right u/s.84(c) of the Act, can be summarized as under :-

> *"Limitation either bars a remedy or extinguishes a right of a party and it is unthinkable that any Court would bar a remedy or extinguish a right when the Legislature has not done so by importing the principle of some other statute and drawing analogy from some other provision of law. If there is no limitation provided by the Legislature then the only thing that the Tribunal has to do is to permit the application to be made irrespective of passage of time…….Section 98 of the Act of 1950, cannot be fettered with limitation. As such, I conclude that the application preferred by the applicants u/s 98 of the Act, 1950 was maintainable and has been correctly so held by the Dy.Collector, Land Reforms and the MRT Aurangabad."*

20. I have gone through the above precedent very carefully and do find that the preposition of law laid down in the above precedent has considered the provisions of Sec.98 of Hyderabad Tenancy & Agricultural Lands Act, 1950, which is unanimously similar with to the Sec. 84(c) of the Act. Therefore, by following the preposition of law laid down in the above precedents, I hold that once the possession of the Defendant over the suit property found as the unauthorized or wrongful possession irrespective of passage of time, the application u/s 84(c) shall not be barred by limitation. By following the said principle of law to the case at hand I hold that the present application is perfectly within limitation for which the law of limitation is not applicable at all. On this touchtone the reasonings recorded by the trial tribunal i.e. SDO do not sustain in eye of law or do not get support of statutory provisions from Sec. 84(c) of the Act. On the contrary, as observed the provisions of Sec. 84(c) of the Act nowhere contemplates or restricts the right of summary eviction on the point of limitation. With these observations, I hold that the claim put forth by the Petitioner for summary eviction u/s 84(c) of the Act is perfectly within limitation irrespective passage of time when their right has accrued to them and I answer this issue in affirmative.

21. **Point No.III to V-** Inview of affirmative finding of Point No.1&2, now I have to consider the scope of revisional court and the effect of continuation of illegal possession through the Defendant over the suit property. It is well settled principle of law, that while acting as a revisional court u/s 76 of the Act, this

Tribunal has all powers of second appeal u/s 100 of CPC, which permits the revisional court to re-appreciate the entire record available before it while re-appreciating them within limits of revisional jurisdiction. In support of above observations I may keep reliance on following two precedents.

(i) Baldevji Vs. State of Gujarat, reported in AIR 1979 SC, page-1326

(ii) Shamrao Vs. Shantabai, reported in 1995 Vol.I, Mhlj-668

wherein Their Lordships have ruled as under :

> *"The provisions of revision within the limits of Sec.76 of the Act are ever in form of second appeal as contemplated u/s 100 of CPC. Same principle applies for an application for revision before the revenue tribunal. The Tribunal has jurisdiction to examine the finding of fact if same are based on no evidence or are found to be perverse in eye of law. A decision arrived at without deciding the proper issues of fact is an essence of decision contrary to law."*

22. I have gone through the above precedent very carefully and do find that the principle laid down therein empowers this Tribunal within its revisional jurisdiction to correct the judgment & order passed by the court of first instance, which is neither supported by documentary evidence or pleadings put forth by either of the parties. Not only that, but the said judgment & order is ever not considered all material placed before it, but decided the same in vague nature without touching to the facts involved in the dispute. Therefore, the same deserves to be set aside even by invoking the revisional jurisdiction of this court.

23. Now, while using the revisional jurisdiction of this Tribunal to set aside the order of trial tribunal , I have to consider the further possession of Defendant since from the verdict of the Tribunal. It is well principle of law that the tenancy statute is a special statute, which is a social legislation, and having regard to the nature of the statute and provisions made thereunder the possession of tenant becomes unauthorized from the date of tribunal and not prior to it such as determination of tenancy etc., In support of above observations I may keep reliance on the precedent laid down by our Hon.High Court in the case of ***Namdeo Joshi Vs. Raghunath Kadam, reported in AIR 1974 Bom.311 (DB).*** The preposition of law laid down therein can be summarized as under :

> *"The Tenancy Act is a social legislation and a departure from normal law of the land. It is the Mamlatdars order after proper enquiry under the Act, that makes the possession illegal and not about the termination of tenancy. Mere termination of tenancy by notice is not enough to treat the possession of tenant illegal. But, it shall be order from the date of the order of Mamlatdar. When the final order in favour of the landlord is barred awarding him possession that order must be deemed to be the Mamlatdars order irrespective of the facts which court of Tribunal passed it. To postpone the effective date of illegal possession to the date of orders of the*

higher tribunal is to put premium on dishonesty of litigants or their capacity to undertake the litigation."

24. I have gone through the above precedent very carefully and do find that the preposition of law laid down therein certainly helps me to held that herein this case, inview of the observations made supra the possession of the Defendant over the suit property henceforth is ever illegal or otherwise wrongful, for which the Defendant is not entitled to continue the same, merely by taking the *lis* before the higher courts. Therefore, I am of the view that this is the fit case where the Tribunal shall direct the enquiry contemplated under Order-20, Rule-12(1)(c) of CPC. I have already observed paras supra of the judgment, that the provisions of Mamlatdar's Courts Act, 1906 are quite similar that too the provisions of CPC. Therefore, I am of humble opinion that the provisions of Order-20, Rule-12(1)(c) of CPC for future menseprofit from the date of the order of the Tribunal is necessary. With these observations, I answer the Point No.3 in negative & Point No.4 & 5 as per final order.

25. Before completing the judgment, I would like to state here that even by documentary evidence, it appears and proved that since from the date of inception of his, the Defendant is in illegal possession of the suit property, but taking the matter upto higher tribunals at his cost. Therefore, this is the fit case where a appropriate cost should have to be awarded in favour of succeeding Plaintiff, for which if the amount of cost is quantified upto Rs.5000/- that will meet the ends of justice. With these observations I proceed to pass the following order.

ORDER

Revision application is hereby allowed.

The judgment & order passed by the SDO Baramati in tenancy file No.5/2013, dt.8/1/2015 is hereby set aside.

The application moved by the Plaintiffs u/s 84-c of the Act is hereby allowed.

Defendants be summarily evicted from the suit property and Plaintiffs be put in peaceful possession thereof forthwith.

Separate enquiry be made in respect of future menseprofit as per Order-20 Rule-12(1)(c) of CPC from this date till the actual date of delivery of possession of the suit property to the Plaintiffs before the appropriate Civil Court.

The Defendants shall pay an amount of Rs.5000/- as cost throughout to the Plaintiffs and shall bare their own.

R&P be sent back to the trial tribunal accordingly.

Intimation of this order be sent to both the parties & lower courts.