

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11445 OF 2013

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Malika Dastgir Diwakar & Ors. ... Petitioners

V/s.

Chandraseniya Kayastha Prabhu
Ganapati Mandir Trust, Bhiwandi,
Through Trustee & Anr. ... Respondents

**WITH
CIVIL APPLICATION NO.2032 OF 2014**

Satish Narayan Durve & Ors. ... Applicants

In the matter between

Malika Dastgir Diwakar & Ors. ... Petitioners

V/s.

Chandraseniya Kayastha Prabhu
Ganapati Mandir Trust, Bhiwandi,
Through Trustee & Anr. ... Respondents

**WITH
WRIT PETITION NO.11446 OF 2013**

Malika Dastgir Diwakar & Ors. ... Petitioners

V/s.

Chandraseniya Kayastha Prabhu
Ganapati Mandir Trust, Bhiwandi,
Through Trustee & Anr. ... Respondents

**WITH
CIVIL APPLICATION NO.2033 OF 2014**

Satish Narayan Durve & Ors. ... Applicants

In the matter between

Malika Dastgir Diwakar & Ors. ... Petitioners

V/s.

Chandraseniya Kayastha Prabhu
Ganapati Mandir Trust, Bhiwandi,
Through Trustee & Anr. ... Respondents

Mr. Kailash S. Dewal i/b Mr. Jayesh M. Joshi, for the Petitioners.

Mr. Vinay M. Bhate a/w Mr. Sandeep Mahadik i/b Mr. Deepak P. Jamsandekar, for Respondent No.1.

Mr. Milind Parab, for Respondent Nos.2/1 to 2/5.

Mr. Sunil G. Karandikar, for Intervener/Applicant.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 27, 2025

JUDGMENT:

1. Both petitions arise from proceedings under Section 32G of the Bombay Tenancy and Agricultural Lands Act, 1948. The Agricultural Lands Tribunal held that the petitioners are entitled to purchase the lands bearing Survey Nos. 3(P), 45/18, 45/13 and 45/8 situated at Village Laapkhurd, Taluka Bhiwandi, District Thane. After the certificate under Section 32G was issued, a certificate under Section 32M was also issued in favour of the petitioners.

2. Respondent No.2 claims rights on the basis of an alleged tenancy created in 1971. He asserts that such tenancy was created after the petitioners vacated the land due to riots. Respondent No.1 Trust filed an appeal. The Appellate Authority remanded the proceedings to the ALT for adjudicating the claim of Respondent No.2. Before Respondent No.1 initiated proceedings under Section 88B, it had already filed proceedings under Section 70B seeking a declaration that the petitioners were not tenants. Those proceedings were dismissed.

3. The Appellate Authority later dismissed the appeal filed by Respondent No.2 for default. At the same time, it allowed the appeal filed by the Trust and remanded the proceedings to the ALT. The petitioners filed a revision before the Maharashtra Revenue Tribunal. Respondent No.2 also filed a revision challenging dismissal of his appeal for non-prosecution. The Tribunal dismissed the petitioners' revision. It allowed the revision of Respondent No.2 and directed adjudication of his claim based on an alleged tenancy created in 1970. These orders are challenged in the present petitions.

4. Learned Advocate for the petitioners, submitted that there is no dispute about the fact that the petitioners' predecessor was in possession of the disputed lands on Tiller's Day. He submitted that the purchase price was fixed under Section 32G and a certificate under Section 32M was issued. He argued that the Authorities could not have remanded the matter for a fresh enquiry into a tenancy claim said to have been created in 1971. He pointed out that the landlord had already filed proceedings under Section 70B seeking a negative declaration against the petitioners. Those proceedings were dismissed. According to him, this dismissal reaffirmed the tenancy rights of the petitioners. He submitted that the Tahsildar's order dated 30 September 2010 fixing the purchase price under Section 32G and issuing the certificate under Section 32M deserves confirmation.

5. He further submitted that the Trust itself had stated before the Tribunal that in 1953, when the Trust was registered, the disputed property was not its property. Therefore, on 1 April 1957,

the disputed property was not part of the Trust's property. He relied on the judgment of this Court in *Kondiba Laxman Hanmar v Krishnarao Anandrao Dalavi*, 2004 (4) Mh LJ 324. He submitted that when the Trust acquires land after 1 April 1957, no exemption certificate under Section 88B can be issued for such land.

6. Learned Advocate for the Trust submitted that since the Trust was registered in 1953, the Authorities acted correctly in remanding the matter for consideration of the claim of a co-tenant whose tenancy is stated to have been created in 1971.

7. Learned Advocate for Respondent No.2 submitted that the landlord created rights in favour of Respondent No.2 in 1971 when the petitioners had left the village. He submitted that the Appellate Authority had not considered his claim on merits. He argued that the Tribunal rightly remanded the matter to the Tahsildar for adjudication of the claim of tenancy created in 1971. He prayed for dismissal of the petitions.

8. I have considered the record and the submissions made by all sides. The facts are largely undisputed. The petitioners' predecessor was in possession of the disputed lands on Tiller's Day. The Agricultural Lands Tribunal had fixed the purchase price under Section 32G and issued a certificate under Section 32M. These certificates stand unless they are set aside by a process known to law. They create a statutory vesting. Such vesting is not lightly disturbed.

9. The landlord had earlier filed proceedings under Section 70B seeking a declaration that the petitioners were not tenants. The

Authority under Section 70B dismissed those proceedings. That dismissal affirms the position of the petitioners as tenants. Once such affirmation stands, the statutory machinery under Section 32G proceeds on that basis. A fresh enquiry at the instance of a person claiming a later tenancy must meet a strict test. It must be shown that his tenancy arose before the rights of the petitioners crystallised under Section 32G and Section 32M. Respondent No.2 claims a tenancy created in 1971. This is long after Tiller's Day. It is also long after the rights of the petitioners under Section 32G began to stand settled. A tenancy created after vesting cannot defeat the statutory right that has already accrued to a tenant in possession on Tiller's Day.

10. The Trust submits that since it was registered in 1953, the Authorities were right in remanding the matter to examine the claim of Respondent No.2. This submission is not supported by the material on record. The Trust itself had stated that in 1953 the disputed lands were not part of its property. If the Trust acquired the lands after 1 April 1957, it cannot claim the benefit of an exemption under Section 88B. The law laid down in *Kondiba Laxman Hanmar* supports this position. The character of the land as a Trust property for purposes of exemption must exist on 1 April 1957. That condition is not satisfied here.

11. Respondent No.2 seeks adjudication of rights based on an alleged tenancy created in 1971. Even assuming that Respondent No.2 was placed in possession due to disturbances or riots, such possession cannot override the statutory vesting that had already taken place in favour of the petitioners. Once the tenant on Tiller's

Day has a right to purchase and the machinery has concluded with the issuance of a Section 32M certificate, the jurisdiction of the Authority is limited. The Authority cannot reopen the matter to recognise a tenancy created much later. This would unsettle rights already crystallised by law. It would also defeat the scheme of Sections 32 to 32M, which aim to secure ownership rights for the tiller.

12. The Tribunal committed an error in directing reconsideration of the claim of Respondent No.2. The Tribunal ignored the earlier dismissal under Section 70B. It also failed to consider the statutory finality that follows the issuance of a certificate under Section 32M. The Tribunal's view would allow reopening of settled matters after decades on the basis of claims unrelated to Tiller's Day. Such a course is not supported by the Act.

13. On a careful examination of the record, I find that the Tahsildar's order dated 30 September 2010 fixing the purchase price under Section 32G and issuing the Section 32M certificate was legal and valid. There was no occasion for the Authorities to disturb it.

14. The claim of the intervener rests on the assertion that he was the landlord on Tiller's Day. This issue has already been examined by the competent Authorities under the Act. Each Authority has returned a clear finding that the intervener was not the landlord on Tiller's Day. These findings have attained finality.

15. Once the statutory forums have negated his status as landlord on Tiller's Day, no right survives in his favour to intervene

in the present proceedings. The jurisdiction of this Court in the present petitions is limited to examining the legality of the orders passed under Sections 32G and 32M. An intervener who has no subsisting right under the Act cannot be allowed to reopen matters concluded against him.

16. Hence, I pass following order:

(a) The judgment and order passed by the Maharashtra Revenue Tribunal allowing the revision filed by Respondent No.2 and directing reconsideration of his claim of tenancy created in 1971 is quashed and set aside.

(b) The order of the Tahsildar dated 30 September 2010 fixing the purchase price under Section 32G and issuing the certificate under Section 32M in favour of the petitioners is upheld and confirmed.

(c) The remand directions issued by the Authorities below are set aside.

17. The petitions are allowed. There shall be no order as to costs.

18. The intervention applications are rejected.

19. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)