

Shabnoor

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

WRIT PETITION NO. 12946 OF 2016

Jitendra Chiranjilal Vyas ... **Petitioner**
V/s.
Shardabai Ganesh Oze
(Since Deceased Through LR.) & Ors. ... **Respondents**

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Mr. Sanjiv Sawant a/w Ms. Bhakti Wast for the
Petitioner.

Mr. Ashutosh Kulkarni a/w Mr. Hrutik R. Chavan i/by
Mr. Akshay Kulkarni for the Respondent No. 1.

Mr. S. G. Karandikar i/by Mr. J. M. Joshi for the
Respondent No. 2 to 13.

Smt. Mamta Srivastva, AGP for the Respondent/State.

CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 24, 2026

PRONOUNCED ON : AUGUST 31, 2026

JUDGMENT:

1. The Petitioner was the original Applicant in Review Application No. TNC/REV/RAG/2/2014 filed before the Maharashtra Revenue Tribunal. The Petitioner has challenged the order dated 18 June 2015 passed by the learned President of the Maharashtra Revenue Tribunal, Mumbai, in Review Application No. 2 of 2014.

2. The dispute in the present Writ Petition relates to agricultural land bearing old Survey No. 16/4, admeasuring 12-29-

00 hectares, with Pot Kharaba of 1-71-00 hectares, now bearing Gat No. 219/4, situated at Village Shirdhon, Taluka Panvel, District Raigad. Shri Ganesh Sadashiv Oze was the original landlord and owner of the suit land. After Shri Ganesh Sadashiv Oze died, his widow Smt. Shardabai G. Oze became the owner of the suit land. The Respondents claimed that they were tenants of the suit land. Their predecessor, Late Shri Gorya Posha Vajekar, filed an application under Section 32-G of the Bombay Tenancy and Agricultural Lands Act, 1948, in the year 1964 before the learned A.L.T., Panvel No. 4. An inquiry was held in the said proceedings. However, the learned Tahasildar and A.L.T., Panvel postponed the proceedings under Section 32-G because the landlady was a widow., the Tillers' Day was postponed. In the year 1971, the predecessor of the Respondents, Shri Gorya Posha Vajekar, died. Thereafter, the names of Balya Gorya Vajekar and others were entered in the revenue record as his legal heirs by Mutation Entry No. 1587. In the year 1984, Shri Balya Gorya Vajekar died. Thereafter, the names of the present Respondents, including Mahadeo Balu Vajekar and others, were entered in the record as his legal heirs.

3. On 17 August 2006, one Mahadu Nathu Vajekar filed an application before the learned Tahasildar, Panvel, on behalf of the other Respondents under Section 70(b) of the Bombay Tenancy and Agricultural Lands Act, 1948. Before filing the said application under Section 70(b), an application had been filed by one Vajekar for entering the names of the present Respondents as tenants in the revenue record. According to the Petitioner, those entries were

wrongly made. On 17 August 2006, the learned A.L.T. and Tahasildar, Panvel, issued notices to all concerned parties and fixed the matter for hearing on 24 August 2006. While the said application was pending before the Tahasildar, Panvel, notices under Section 32-G were issued by the A.L.T. and Tahasildar, Panvel.

4. In these circumstances, Respondent No. 1 filed an application or representation under Section 32-G of the Bombay Tenancy and Agricultural Lands Act, 1948, before the Additional Tahasildar and A.L.T., Panvel, seeking fixation of the purchase price against the Petitioner. The said application was registered as Tenancy/SR/109-A/2010 on 7 July 2010. Notices were thereafter issued to the parties in the said tenancy proceedings. The Petitioner states that, during the inquiry, Respondent No. 1 raised an objection. According to the Petitioner, the inquiry was completed without recording the statements of the parties before the A.L.T. The Petitioner objected to the manner in which the proceedings were conducted. According to the Petitioner, the earlier dropped proceedings and Mutation Entry No. 770 were never challenged by the Respondents. The Petitioner contends that those proceedings and the mutation entry had become relevant because the purchase price had not been fixed and the Respondents had not been declared as tenants in respect of the suit land.

5. On 22 February 2011, while the application under Section 70(b) was pending, the learned A.L.T., Panvel, conducted the inquiry under Section 32-G. According to the Petitioner, the A.L.T.

did not properly consider the merits of the case or the mandatory legal provisions and did not properly verify the records. The purchase price was fixed in favour of the Respondents and an order was passed. Being aggrieved by the order dated 22 February 2011 passed by the Additional Tahasildar, Respondent No. 1 filed an appeal before the Sub-Divisional Officer, Panvel. The appeal was numbered as Tenancy Appeal No. 41 of 2011. During the pendency of the appeal before the learned S.D.O., Panvel, the order dated 22 February 2011 passed by the learned Additional Tahasildar was stayed. The learned S.D.O. heard the matter on merits. The Petitioner filed detailed written submissions before the learned S.D.O. on 4 July 2011. On 24 May 2012, the learned S.D.O., Panvel, passed an order in Tenancy Appeal No. 41 of 2011 and dismissed the appeal preferred by the Petitioner.

6. According to the Petitioner, both the order dated 22 February 2011 passed by the A.L.T., Panvel, and the order dated 24 May 2012 passed by the learned S.D.O., Panvel, are legally invalid. The main reason given by the Petitioner is that the original application under Section 32-G had been filed before the A.L.T., Panvel, on 7 July 2010 through Shri Dilip Shankar Pawar, who claimed to act as a Power of Attorney holder. The Respondents, namely, (1) Ragho Ganpat Vajekar, (2) Padu Ganpat Vajekar, (3) Namdev Ganpat Vajekar, (4) Smt. Changuna Sakharam Patil, (5) Smt. Nanubai Ankush Bhoir and (6) Smt. Kalubai Anand Bhopi, had executed a Power of Attorney dated 29 March 2007 in favour of (1) Shri Ashish Chandrakant Shah, (2) Smt. Aparna Ashish Shah and (3) Shri Vishwanath Bala Kotian. Thereafter, Shri Ashish Chandrakant

Shah and Smt. Aparna Ashish Shah executed a Power of Attorney in favour of Shri Dilip Shankar Pawar on 3 October 2006. According to the Petitioner, the Power of Attorney dated 3 October 2006 was executed by Shri Ashish Chandrakant Shah in favour of Shri Dilip Shankar Pawar before Shri Ashish Chandrakant Shah himself had authority under the Power of Attorney dated 29 March 2007. The Petitioner contends that Shri Dilip Shankar Pawar had no legal authority to appear or contest the proceedings before the A.L.T., Panvel. The Petitioner states that Shri Mahadu Balu Vajekar appeared before the learned S.D.O., Panvel, as a Power of Attorney holder. According to the Petitioner, however, the said Power of Attorney had been revoked and cancelled by the Respondents by Advocate's notice dated 5 July 2010 and by a public notice dated 6 July 2010 published in a newspaper. The Petitioner contends that Shri Mahadu Balu Vajekar had no authority to conduct the proceedings before the learned S.D.O. On the basis of the Power of Attorney executed by Smt. Shardabai Ganesh Oze, the Petitioner filed Revision Application No. 243 of 2012 before the Maharashtra Revenue Tribunal, Mumbai, challenging the judgment and order dated 24 May 2012 passed by the learned S.D.O. in Tenancy Appeal No. 41 of 2011. The said Revision Application challenged the order by which the appeal filed by the Petitioner had been dismissed. The said Revision Application was heard by the learned M.R.T., Mumbai. After hearing the matter, the learned M.R.T. admitted the Revision Application and granted stay to the order dated 24 May 2012 passed by the learned S.D.O. in Tenancy Appeal No. 41 of 2011.

7. The Petitioner states that he continued to pursue the said Revision Application after it was admitted by the learned M.R.T. and that the Revision Application was pending for hearing. In the meantime, Smt. Shardabai Ganesh Oze issued a termination notice seeking to terminate the Irrevocable Power of Attorney dated 29 October 2006 and sought cancellation of the registered Agreement for Sale dated 29 May 2007. The Petitioner had filed Special Civil Suit No. 329 of 2012 before the learned Civil Judge, Senior Division, Panvel. In that suit, the Petitioner sought specific performance of the said documents. The suit is pending before the learned Civil Judge, Senior Division, Panvel. In the said suit, the learned Civil Judge, Senior Division, Panvel, passed an order directing the parties to maintain status quo in respect of the suit property.

8. The Petitioner stated in the Review Application before the M.R.T., Mumbai, that the M.R.T. was required to consider the order passed by the Civil Court and recall or review the order dated 3 April 2014 passed in Revision Application No. 243 of 2012. According to the Petitioner, the Revision Application had been filed on the basis of a Power of Attorney which was in existence. The alleged termination of that Power of Attorney was the subject matter of the civil suit pending before the Civil Court. The Civil Court had granted a status quo order in that suit. The Petitioner stated that Respondent No. 1 had received consideration of Rs.80 lakhs under the Agreement for Sale and had thereafter given the Power of Attorney in favour of the Petitioner. Thereafter, Smt. Savita K. Chopra, daughter of Smt. Shardabai Ganesh Oze,

appeared before the M.R.T., Mumbai. She filed an application claiming that she had a Power of Attorney executed by Smt. Shardabai Ganesh Oze. On 21 December 2012, the learned M.R.T., Mumbai, passed an order recording that there was a dispute as to which of the two Power of Attorneys should be allowed to proceed with the matter. The order recorded that, if the constituted Attorneys did not resolve the dispute amicably by the next date, necessary orders would be passed. The termination of the Agreement for Sale dated 29 May 2007 and the Power of Attorney dated 29 October 2006 was the subject matter of Special Civil Suit No. 329 of 2012 filed by Shri Dilip Kesarimal Mehta and Shri Naresh Kesarimal Mehta before the learned Civil Judge, Senior Division, Panvel, against Smt. Shardabai Oze, her heirs and one Wahid Hussain H. Shaikh.

9. In the said suit, an application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure was filed. The learned Civil Judge heard the application and passed an order directing maintenance of status quo in respect of the suit property. The suit is still pending before the learned Civil Judge, Senior Division, Panvel. After the alleged termination of the Agreement for Sale and the Power of Attorney, Shri Naresh K. Mehta and Shri Dilip K. Mehta filed an intervention application before the learned M.R.T. They stated that they had a direct interest in the property, had invested a substantial amount and had paid the consideration to Smt. Shardabai G. Oze and Wahid Hussain H. Shaikh. The learned M.R.T. considered the said intervention application and directed that the application be

treated as part of the Revision Application as if it had been filed in the Revision Application. On 3 April 2014, the matter was listed before the learned M.R.T., Mumbai. According to the Petitioner, no notice was given to him and the pursis filed by Smt. Savita K. Chopra was not served upon him.

10. On that day, Smt. Savita K. Chopra filed an application before the learned M.R.T., Mumbai, seeking permission to withdraw the pending Revision Application No. 243/B/2012. The Petitioner relies upon the roznama dated 5 February 2014. According to the Petitioner, it records that the Applicant wanted to appear in person instead of appearing through a Power of Attorney holder. The Petitioner contends that the Applicant was required to remain personally present before the learned M.R.T. According to the Petitioner, despite this position, Smt. Savita K. Chopra did not remain personally present before the learned M.R.T. and instead filed an application through her Advocate by giving a Vakalatnama. An application was filed on 20 February 2013. The roznama dated 20 February 2013 records that she was absent and had filed Vakalatnama through an Advocate. It records that the matter was to proceed ex parte. The Petitioner states that he obtained the application filed by Smt. Savita K. Chopra through certified copies. On 3 April 2014, an order was passed on the said application. The order records that, "as per the pursis filed today, their Revision is withdrawn by Revisional Applicant unconditionally and hence it is disposed of as withdrawn." According to the Petitioner, Smt. Savita K. Chopra, while acting as Power of Attorney holder of Smt. Shardabai G. Oze, suppressed the

material fact that the dispute regarding the Agreement for Sale and the Power of Attorney was pending before the Civil Court, Senior Division, Panvel, in Special Civil Suit No. 329 of 2012. The Petitioner states that the Civil Court had granted status quo in respect of the suit land.

11. The Petitioner contends that Smt. Savita K. Chopra, acting through the Power of Attorney, attempted to make the pending civil suit ineffective by withdrawing the Revision Application before the M.R.T. It is alleged that Smt. Savita K. Chopra filed the application on 3 April 2014 behind the back of the Petitioner and with an intention to defeat the rights claimed by him. According to the Petitioner, Smt. Savita K. Chopra suppressed the earlier orders passed by the M.R.T. and the proceedings in which she had acted as the Power of Attorney holder of Smt. Shardabai G. Oze. The Petitioner contends that, by filing the pursis without notice to him, an order dated 3 April 2014 was obtained which seriously affected his claimed rights. The order dated 3 April 2014 is the order challenged by the Petitioner in Review Application No. 2 of 2014 before the M.R.T. The Petitioner relies upon the noting made below the application dated 3 April 2014. The said noting bears the date "2-4-2014" and records that, "Smt.Savita Chopra as identified by Shri Milind Parab, Advocate admits contents. Hence I record this pursis." According to the Petitioner, there is an apparent discrepancy because the application was filed on 3 April 2014, whereas the noting records the date as 2 April 2014. In these circumstances, the Petitioner filed Review Application No. 2 of 2014 before the M.R.T. He prayed that the Revision Application

which had been withdrawn behind his back should be restored and heard on merits and that the order dated 3 April 2014 should be recalled and/or set aside. The said Review Application was heard by the learned M.R.T. from time to time. On 18 June 2015, the learned President of the M.R.T., Mumbai, disposed of the Review Application filed by the Petitioner. The learned M.R.T. held that the person who had allegedly executed the Power of Attorney in favour of the Applicant was no longer alive. The Review Application was disposed of on that basis. The learned M.R.T. made it clear that the order was passed on a technical point and not on the merits of the dispute. It was clarified that the Applicant's right to pursue his civil rights before the appropriate Civil Court was not precluded. The Petitioner is before this Court challenging the order dated 18 June 2015 passed by the learned President of the Maharashtra Revenue Tribunal in Review Application No. 2 of 2014.

12. Mr. Savant, learned Advocate for the Petitioner, submitted that the learned President of the M.R.T., Mumbai, ought to have considered that a substantial amount of Rs.80 lakhs was paid by cheque to Smt. Shardabai G. Oze. The said amount was duly credited to her bank account. The amount was paid under the Agreement for Sale dated 29 May 2007. There is no dispute that Smt. Shardabai G. Oze had received this amount. It was submitted that the Agreement for Sale and the Power of Attorney were connected with the payment of consideration. The consideration was accepted by Smt. Shardabai G. Oze. According to the Petitioner, because of this transaction, an interest in the property

was created in favour of Shri Dilip Kesarimal Mehta and Shri Naresh Kesarimal Mehta.

13. It was submitted that, once a substantial part of the consideration had been paid to and accepted by Smt. Shardabai G. Oze, the contract could not have been terminated in the manner suggested by the Respondents. The Petitioner submitted that Smt. Savita K. Chopra had obtained the order dated 3 April 2014 by filing a pursis and withdrawing the Revision Application without notice to the Petitioner. According to the Petitioner, in view of the Agreement for Sale, the Power of Attorney and the consideration paid, the learned President of the M.R.T., Mumbai, ought to have recalled the said order. It was lastly submitted that the Revision Application filed by the Petitioner had been admitted by the learned M.R.T. and stay had been granted against the order passed by the lower Authority., according to the Petitioner, the learned President of the M.R.T., Mumbai, ought to have recalled the order dated 3 April 2014 and restored the Revision Application for hearing and decision on its own merits.

14. Mr. Karandikar, learned Advocate appearing for the Respondent, submitted that the Power of Attorney in favour of the Petitioner had been cancelled by a termination notice dated 25 June 2012. According to him, once the landlady withdrew the appeal and there was no transfer of any interest in the property through the Power of Attorney, the Review Application was rightly dismissed by the M.R.T. He submitted that the M.R.T. had given liberty to the Petitioner to pursue and claim his rights before the Civil Court., according to him, the Petitioner was not without a

remedy. He submitted that the Power of Attorney only gave the Petitioner the right to file, institute and conduct proceedings on behalf of the landlady. It did not give the Petitioner any right or interest in the suit property. On this basis, he submitted that the M.R.T. had rightly dismissed the Review Application and that no interference was required with the impugned order.

REASONS AND FINDINGS:

15. I have heard Mr. Savant, learned Advocate for the Petitioner, and Mr. Karandikar, learned Advocate for the Respondent. I have considered the pleadings, the proceedings before the concerned authorities and the material placed before this Court. The dispute is an old dispute relating to agricultural land bearing old Survey No.16/4, now Gat No.219/4, situated at Village Shirdhon, Taluka Panvel, District Raigad. However, for deciding this Petition, it is not necessary to decide the old tenancy dispute. The main question which is required to be considered is whether the learned President of the Maharashtra Revenue Tribunal was right in refusing to recall the order dated 3 April 2014, by which Revision Application No.243 of 2012 came to be disposed of as withdrawn.

16. For considering this question, it is necessary to see what happened earlier. The original proceedings under Section 32-G were started in the year 1964 by Shri Gorya Posha Vajekar, who was the predecessor of the Respondents. Those proceedings were later postponed because the landlady was a widow. Thereafter, the legal heirs of the original claimant were brought on record. After many years, proceedings under Sections 70(b) and 32-G were

again taken forward. The learned A.L.T. passed an order dated 22 February 2011 fixing the purchase price in favour of the Respondents. The said order was challenged before the learned S.D.O., Panvel. The appeal was dismissed on 24 May 2012. The Petitioner thereafter approached the M.R.T. by filing Revision Application No.243 of 2012. It is not disputed that the said Revision Application was admitted by the M.R.T. and stay was granted to the order dated 24 May 2012 passed by the learned S.D.O. The Revision Application was not merely filed and kept pending at the first stage. It was admitted and was being considered by the Tribunal., Mr. Savant submitted that the learned President ought to have restored the Revision Application instead of allowing it to remain withdrawn.

17. The main grievance of the Petitioner is about the manner in which the Revision Application was withdrawn. According to the Petitioner, Smt. Savita K. Chopra claimed to act as Power of Attorney holder of Smt. Shardabai G. Oze and filed a pursis for withdrawing the Revision Application. According to the Petitioner, this was done without giving notice to him and without considering the rights claimed by him. The order dated 3 April 2014 records that, "as per the pursis filed today, their Revision is withdrawn by Revisional Applicant unconditionally and hence it is disposed of as withdrawn." Thus, the Revision Application was not decided after hearing the parties on merits. It came to an end only because the revisional applicant stated that she was withdrawing it. The Petitioner has relied upon the earlier proceedings before the M.R.T. He points out that on 21 December 2012 the Tribunal had

noticed that there was a dispute regarding which of the two Power of Attorneys should proceed with the matter. The order stated that if the constituted Attorneys did not resolve the dispute amicably, necessary order would be passed., the question regarding the authority of the persons claiming to act for Smt. Shardabai G. Oze was known to the Tribunal. It was not a question which came before the Tribunal for the first time after the Revision Application was withdrawn.

18. There is one more circumstance which is required to be seen. According to the Petitioner, the termination of the Agreement for Sale dated 29 May 2007 and the Power of Attorney dated 29 October 2006 was challenged in Special Civil Suit No.329 of 2012 before the learned Civil Judge, Senior Division, Panvel. It is stated that an application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure was filed in that suit. The Civil Court considered the application and passed an order of status quo in respect of the suit property. The said civil suit, in which specific performance is claimed, is still pending.

19. The Petitioner relies upon this fact and submits that his rights could not have come to an end merely because the Revision Application was withdrawn. According to the Petitioner, he and Shri Naresh Kesarimal Mehta had paid Rs.80 lakhs under the Agreement for Sale. In paragraph 39 of the earlier submissions, the Petitioner's case is stated as follows: "The Petitioner stated that Respondent No.1 had received consideration of Rs.80 lakhs under the Agreement for Sale and had thereafter given the Power of Attorney in favour of the Petitioner." Mr. Savant submitted that "a

substantial amount of Rs.80 lakhs was paid by cheque to Smt. Shardabai G. Oze" and that the amount "was duly credited to her bank account." The alleged payment of Rs.80 lakhs is an important fact. If the payment is supported by the Agreement for Sale and the bank record, it cannot be said that the Petitioner had no connection with the transaction. It shows that the Petitioner is claiming some rights arising from that transaction. But merely because Rs.80 lakhs was paid, this Court cannot say in the present Petition that ownership or a legally enforceable interest in the land had passed to the Petitioner or to Shri Dilip Kesarimal Mehta and Shri Naresh Kesarimal Mehta. For deciding that question, the Agreement for Sale, the Power of Attorney, the alleged termination and the other documents are required to be considered. The rival claims are pending before the Civil Court.

20. Mr. Savant submitted that the "agreement for sale and the power of attorney was coupled with the consideration" and that "the said consideration was accepted and the interest in the property was created in favour of Shri Dilip Kesarimal Mehta and Shri Naresh Kesarimal Mehta." I am unable to record this as a final finding in the present Petition. Payment of money under an agreement and creation of a legally enforceable interest in immovable property are two different things. The effect of the Agreement for Sale, the Power of Attorney and the alleged termination has to be decided after considering the documents and evidence. Since the Civil Court is considering this dispute, it would not be proper for this Court to decide these questions in the present writ proceedings.

21. Mr. Savant submitted that the contract could not have been terminated because "substantial consideration was passed in favour of Smt. Shardabai G. Oze". The receipt of consideration is an important fact. But from the payment alone, it cannot be decided whether the Agreement for Sale was validly terminated. It cannot be decided in this Petition whether the Power of Attorney could legally be cancelled, what rights were created in favour of the purchasers and what relief can be granted on the basis of the payment. These matters depend upon the documents and evidence and they are part of the civil proceedings. I am unable to accept the submission that payment of Rs.80 lakhs gave the Petitioner right to seek restoration of the Revision Application before the M.R.T.

22. At the same time, the submission of Mr. Karandikar that the Petitioner had no interest at all in the transaction cannot be accepted in such broad terms. Mr. Karandikar submitted that the Power of Attorney only gave the Petitioner "the right to file, institute and conduct proceedings on behalf of the landlady" and "did not give the Petitioner any right or interest in the suit property." Whether this submission is correct can be considered in the civil proceedings. At present, the material shows the Petitioner's case that an Agreement for Sale was executed, Rs.80 lakhs was paid, a Power of Attorney was executed and thereafter the Petitioner and others instituted a suit for specific performance., it cannot be said that the Petitioner had no claim arising from the transaction. Whether that claim will succeed is a separate question.

23. The next question is regarding the authority of the person who withdrew the Revision Application. Mr. Karandikar submitted that the Power of Attorney of the Petitioner had been cancelled by a termination notice dated 25 June 2012. According to him, once the landlady withdrew the appeal and no interest in the property was transferred to the Petitioner through the Power of Attorney, the Review Application was rightly dismissed by the M.R.T. There is some substance in the submission that if a Power of Attorney is revoked, the person holding that authority cannot continue to act on the basis of the revoked authority. However, in the present case, the validity and effect of the alleged termination are disputed by the Petitioner. That dispute is connected with the civil proceedings. The material relied upon by the Petitioner shows that he disputes the termination. The dispute is pending before the Civil Court. The Civil Court has passed an order of status quo., the M.R.T. had earlier noticed that there was a dispute regarding the two Powers of Attorney. In such circumstances, the matter cannot be treated as if the Power of Attorney was cancelled and nothing remained to be considered by the Tribunal.

24. The learned President of the M.R.T. disposed of the Review Application on the ground that the person who had allegedly executed the Power of Attorney in favour of the Applicant was no more. The Tribunal made it clear that the order was passed not on merits. It clarified that the Applicant's right to pursue his civil rights before the appropriate Civil Court was not prevented. This part of the order is important. The M.R.T. did not decide that the Petitioner had no right under the Agreement for Sale. It did not

decide that Rs.80 lakhs had not been paid. It did not decide that the Agreement for Sale had been validly terminated. It did not decide the dispute regarding the two Powers of Attorney. Therefore, the question before this Court is not whether the Petitioner has some right or no right. The order of the M.R.T. leaves the civil rights of the Petitioner open. The question is whether the M.R.T. committed such an error in refusing to restore the Revision Application that interference by this Court in its writ jurisdiction is required. In my view, the answer is in the negative. The main disputes relied upon by the Petitioner for seeking restoration of the Revision Application are connected with the civil suit. The payment of Rs.80 lakhs, the Agreement for Sale dated 29 May 2007, the Power of Attorney dated 29 October 2006, its alleged termination, the authority of Smt. Savita K. Chopra and the rights claimed by the Petitioner and the other purchasers are all connected with the civil dispute. If the M.R.T. were to decide these questions for the purpose of restoring the revision, there would be a possibility that such findings may overlap with the questions pending before the Civil Court.

25. I cannot accept the submission that merely because Smt. Shardabai G. Oze received Rs.80 lakhs, it became impossible for her to terminate the transaction. The payment is an important circumstance. But its legal effect has to be decided from the Agreement for Sale, the other documents and the conduct of the parties. These matters are before the Civil Court, no final finding regarding the effect of the payment is required to be made in the present Petition. At the same time, the submission of the

Respondent that the Petitioner had no interest at all in the matter cannot be accepted in its widest form. The Petitioner has shown that he is claiming on the basis of the Agreement for Sale, payment of consideration and the Power of Attorney. He has filed a civil suit for specific performance., his grievance regarding the withdrawal of the Revision Application cannot be said to be without basis. However, this does not establish that the Petitioner has acquired title in the suit property. That question remains open.

26. The Petitioner has alleged that Smt. Savita K. Chopra acted "behind the back of the petitioner" and with a "malafide intention". On the material available, I am unable to record a final finding of fraud or mala fides. There are circumstances which raise a question regarding the manner in which the Revision Application was withdrawn. But a finding of mala fides requires clear material. The existence of a dispute regarding the Power of Attorney, the disputed termination and the allegation that notice was not given are not sufficient to hold that the withdrawal was made with mala fide intention.

27. The objection regarding the authority of Shri Dilip Shankar Pawar does not change the result. The Petitioner contends that the Power of Attorney in favour of Shri Dilip Shankar Pawar was dated 3 October 2006, whereas the Power of Attorney under which the executants obtained authority was dated 29 March 2007. This is a factual issue which may have importance. However, it is not necessary in the present Petition to decide the authority of all the persons who appeared in the tenancy proceedings. Such objections may have relevance in the tenancy proceedings. The question

before this Court is regarding the withdrawal of the Revision Application and the Review Application which followed it.

28. Thus, after considering the submissions of both sides, I find that there was a genuine dispute regarding the Power of Attorney, the Agreement for Sale, the payment of Rs.80 lakhs and the manner in which the Revision Application was withdrawn. The learned President of the M.R.T. may not have considered every circumstance in the manner in which the Petitioner desired. However, the impugned order states that it was passed not on merits. It says that the right of the Applicant to pursue his civil rights before the appropriate Civil Court was not prevented. In the facts of the present case, where the Agreement for Sale and the Power of Attorney are the subject matter of a civil suit and where the Civil Court has passed an order of status quo, the impugned order does not take away the rights claimed by the Petitioner.

29. For the reasons stated above, the challenge to the order dated 18 June 2015 fails. The rights and contentions of the parties arising from the Agreement for Sale dated 29 May 2007, the Power of Attorney dated 29 October 2006, the alleged termination, the payment of Rs.80 lakhs and the pending Special Civil Suit No.329 of 2012 are left open for decision by the competent Civil Court in accordance with law. Nothing stated in this judgment shall be treated as a final decision on those civil rights.

30. In view of the foregoing discussion, and upon overall assessment of the material record, the following order is passed:

- (i) The Writ Petition is dismissed.

(ii) The order dated 18 June 2015 passed by the learned President, Maharashtra Revenue Tribunal, Mumbai, in Review Application No.2 of 2014 is upheld;

(iii) It is clarified that this Court has not adjudicated upon the substantive civil rights claimed by the Petitioner or the other concerned parties arising out of the Agreement for Sale dated 29 May 2007, the Power of Attorney dated 29 October 2006, the alleged termination thereof or the payment of Rs.80 lakhs;

(iv) The rights and contentions of the parties in respect of the aforesaid Agreement for Sale, Power of Attorney, alleged termination, payment of consideration and the relief of specific performance shall remain open for consideration by the competent Civil Court in Special Civil Suit No.329 of 2012, in accordance with law;

(v) It is further clarified that the observations made in this judgment are confined to the controversy arising in the present Writ Petition and shall not be treated as a final finding upon the title, ownership, validity of the Agreement for Sale, validity of the Power of Attorney, its alleged termination or the entitlement of any party to specific performance;

(vi) The pending Special Civil Suit No.329 of 2012 shall be decided on its own merits and in accordance with law, without being influenced by any observation made in the present judgment;

(vii) Rule is discharged.

(viii) There shall be no order as to costs.

(AMIT BORKAR, J.)