

Sayali

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

WRIT PETITION NO.2143 OF 2015

WITH

INTERIM APPLICATION NO.13300 OF 2025

**SAYALI
DEEPAK
UPASANI**

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Date: 2026.08.28
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1. Hanuman Budhaji Sorkhade
For self and as Power of Attorney
Holder of Petitioner Nos. 2 to 5.
2. Shri Ramchandra Budhaji Sorkhade
3. Shri Bandu Budhaji Sorkhade
4. Narayan Budhaji Sorkhade
5. Shri Gurunath Budhaji Sorkhade
All R/o Dawadi, Taluka – Kalyan,
District – Thane.

... Petitioners

V/s.

1. Shri Anant Laxman Khane
2. Shri Bhaga Charu Khane
Since deceased through Legal Heirs ...
- 2a. Bhau Bhagya Khane
- 2b. Dilip Bhagya Khane
- 2c. Sheubai Rambhau Bangar
- 2d. Ramabai Ganpati Shelar @
Ramabai Ganpat Shelar
(Died on 13 July 2020, Through
her Legal Heirs)
- 2d/1. Rajesh Ganpat Shelar,

2d/2. Rakesh Ganpat Shelar,
2d/3. Deepa Tushar Solase,
2d/4. Jyoti Pradeep Salekar
Sr. No. 2d/1 to 2d/4, R/a.
Morivalipada, B Cabin Road,
Near Hanuman Temple,
Tal. Ambernath, Dist. Thane
421501.

2e. Vijaya Yashwant Dabhane

2f. Usha Dilip Basare

2g. Lakshmibai Waman Telange

2g/1. Sunil Waman Telange

2g/2. Anil Waman Telange

2g/3. Vandana Rohidas Shelar

2g/4. Babita Bhim Vyapari

3. Shri Antone Frrancis Golmes

4. ~~Smt. Krishnabai Shivaji Bhoir~~

5. ~~Smt. Thakubai Budhaji~~

- ~~Sorkhade (Deleted)~~

...Respondents

Mr. Ameya Pitale, for the Petitioners.

Mr. Aniket Ranade, for Respondent No. 1.

CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 24, 2026

PRONOUNCED ON : AUGUST 28, 2026

JUDGMENT :

1. By filing the present Writ Petition under Articles 226 and 227 of the Constitution of India, the Petitioner has challenged the judgment and order passed by the Sub-Divisional Officer, Thane, in Revision Application No.TNC/REV/297/B/2010 dated 21 April 2010.

2. The facts which have led to filing of the present Petition are as follows. The land in question is Survey No. 80, admeasuring 0.71.03 Hectares and assessed at Rs.14.44/- situated at Village Dawadi, Taluka Kalyan, District Thane. The predecessor of the Petitioner, namely Jaitya Dharma Sorkhade, was a tenant in respect of the said land and his name was accordingly entered in the village records. Initially, by Mutation Entry No.214, his name was entered as a protected tenant in pursuance of the circulars issued by the State Government for recording the names of protected tenants. The said entry was made on the basis of cultivation shown from the year 1946-47. Though the mutation entry was made in the year 1954, it was intended to give effect to the provisions relating to protected tenancy. Therefore, the fact that the entry was made in 1954 does not mean that the tenancy commenced in that year. The entry related to the cultivation of the land by the said tenant from a period prior to the year 1946. On 20 February 1955, by Mutation Entry No.233, the name of the heir, namely Budhya Jaitya Sorkhade, was entered in the record. Subsequently, on 25

January 1976, by Mutation Entry No.408, the names of the revision applicants came to be recorded. The said Mutation Entry shows that, apart from the land in question, certain other lands which had been held by the predecessor of the Petitioners either under the Tenancy Act or by private ownership were entered in the names of the Petitioners after an heirship inquiry. On this basis, the purchase price in respect of the land in question, as well as some other lands held by the Petitioners from the same owner, namely Antone Francis Golmes, was fixed in favour of the Petitioners., in the year 1988, an application came to be filed on behalf of Respondent Nos.1 and 2 seeking a declaration that they were tenants in respect of the land.

3. At the initial stage, the Petitioners were not made parties to the said proceedings, although they were necessary and proper parties having regard to their recorded interest in the land. The application was initially rejected by the Trial Court. Respondent Nos.1 and 2 preferred an appeal, in which the Sub-Divisional Officer remanded the matter for fresh consideration. Even after remand, the Tahsildar again dismissed the application. Respondent Nos.1 and 2 then preferred Tenancy Appeal No.20 of 2000. The Sub-Divisional Officer allowed the said appeal and remanded the matter for a fresh trial. After the second remand, on 31 October 2008, the Tahsildar and Agricultural Lands Tribunal, Kalyan, passed an order declaring Respondent Nos.1 and 2 to be tenants in respect of the land in question. The Petitioners challenged the said order. However, on

21 April 2010, the Sub-Divisional Officer, Thane, dismissed the appeal filed by the Petitioners and confirmed the order passed by the Tahsildar and Agricultural Lands Tribunal, Kalyan. Being aggrieved by these orders, in the year 2010, the Petitioners approached the Maharashtra Revenue Tribunal, Mumbai, by filing Revision Application No.TNC/REV/297/B/2010.

4. On 5 February 2014, the learned President of the Maharashtra Revenue Tribunal dismissed the said Revision Application. The Tribunal mainly held that, on the basis of preponderance of probabilities, the orders passed by the Tahsildar and the Sub-Divisional Officer could not be said to be perverse or to have been based upon inadmissible evidence. It is against the said orders that the present Petition has been filed by the Petitioner.

5. Mr. Ameya Pitale, learned Advocate appearing for the Petitioner, submitted that the predecessor of the Petitioners, namely Jaitya Dharma Sorkhade, was a tenant in respect of the land and his name was accordingly entered in the village record. He submitted that, by Mutation Entry No.214, the name of Jaitya Dharma Sorkhade was entered as a protected tenant in accordance with the circulars issued by the State Government for recording such names. According to him, the said entry was based upon the cultivation shown from 1946-47. Though the entry was made in the year 1954, it was made for giving effect to the provisions relating to protected tenancy and, therefore, the entry had to be understood with reference to the cultivation

of the land by the tenant from a period prior to 1946. He submitted that, by subsequent Mutation Entry No.233 dated 20 February 1955, the name of the heir, namely Budhya Jaitya Sorkhade, was duly entered., by Mutation Entry No.408 dated 25 January 1976, the names of the revision applicants were entered. According to the learned Advocate, this Mutation Entry shows that, apart from the land in question, other lands held by the predecessor of the Petitioners either under the Tenancy Act or by private ownership were entered in the names of the Petitioners after an heirship inquiry. The learned Advocate submitted that the authorities below, as well as the Tribunal, failed to properly consider the fact that the names of the revision applicants were subsequently removed by Mutation Entry No.501 in the year 1987-88 and that, by the same entry, the names of Respondent Nos.1 and 2 were inserted. According to him, the said entry was made in clear violation of law.

6. He submitted that, since Mutation Entry No.501 was subsequently set aside by the Additional Commissioner, Konkan Division, it ought to follow that the names of Respondent Nos.1 and 2 could not be treated as having been validly recorded in the 7/12 extract. According to the Petitioners, Respondent Nos.1 and 2 took advantage of the insertion of their names in the Other Rights Column and filed the application in the year 1988 to establish their alleged tenancy rights. The learned Advocate submitted that, while considering the claim of Respondent Nos.1 and 2, the authorities failed to take into account that the

purchase price in respect of the land had been fixed in favour of the revision applicants long before the filing of the said application. Upon payment of the purchase price, a 32M certificate was issued in favour of the revision applicants. It was therefore submitted that the completed proceedings under Section 32G and the issuance of the 32M certificate were important circumstances which could not have been ignored by the authorities. On these grounds, the learned Advocate submitted that the impugned orders deserved to be quashed and set aside.

7. Mr. Aniket Ranade, learned Advocate appearing for Respondent No.1, submitted that Respondent Nos.1 and 2 are the original applicants in 70(b) Case No.20/2002. The said proceedings were originally filed in the year 1988 and, after remand, the case was renumbered twice. By the said application, Respondent Nos.1 and 2 sought a declaration that they were tenants in respect of the suit property. He submitted that on 2 December 1954, Mutation Entry No.214 was posted and the name of Jaitya Dharma Patil was entered as a "Protected Tenant" in four properties, including Survey No.80., on 20 February 1955, Mutation Entry No.233 was posted and the name of Jaitya Dharma Patil's son, Budhya, was entered, as Jaitya Dharma Patil had died about three years earlier. Notices under Section 32G were issued, returnable on 25 June 1963, but only in respect of two properties, namely Survey No.77 Part and Survey No.78 Part. The other two properties, namely Survey No.80 and Survey

No.94, were deleted from the notice. On 25 June 1963, Budhya Jaitu Sorkhade appeared before the Tahsildar and Agricultural Lands Tribunal, Kalyan, and stated that he had no concern with Survey No.80 and Survey No.94. He expressed his willingness to purchase Survey No.77 Part and Survey No.78 Part. On the same day, the statement of the Talathi was recorded. The Talathi stated that Budhya Jaitu Sorkhade was cultivating Survey No.77 Part and Survey No.78 Part at Village Dawdi, Taluka Kalyan, District Thane, as a tenant. On 25 June 1963, the Tahsildar and Agricultural Lands Tribunal, Kalyan, passed an order fixing the purchase price of Survey No.77 Part and Survey No.78 Part at Rs.749/-. The said amount was to be paid in 12 instalments commencing from 25 June 1964 and ending on 25 June 1975. However, Budhya Jaitu Sorkhade did not pay the purchase price during his lifetime.

8. Thereafter, on 25 June 1976, Mutation Entry No.408 was posted after the death of Budhya Jaitu Sorkhade, and the names of his legal heirs were entered in the 7/12 extracts of the properties. Subsequently, on 29 October 1987, the names of Respondent Nos.1 and 2 were entered as “Tenants” in respect of Survey No.80 and the name of Ramchandra Budhya Sorkhade was deleted. In the year 1988, Respondent Nos.1 and 2 filed an application under Section 70(b), seeking a declaration of their tenancy in respect of Survey No.80. The Tahsildar, Kalyan, dismissed the said application. Respondent Nos.1 and 2 filed Tenancy Appeal No.52/1994. The Sub-Divisional Officer, Thane,

remanded the matter to the Tahsildar for making a fresh enquiry. On 26 March 1994, after such enquiry, the Tahsildar, Kalyan, again rejected the claim of tenancy made by Respondent Nos.1 and 2. It was at this stage that the Petitioner approached the Agricultural Lands Tribunal, Kalyan, for depositing the purchase price which had been fixed by the order dated 25 June 1963. The Agricultural Lands Tribunal calculated interest on the original purchase price of Rs.749/- and re-fixed the amount at Rs.959/-. From the record, it can be seen that the amount of Rs.959/- was fixed only in respect of Survey No.77 Part and Survey No.78 Part. However, after the said amount of Rs.959/- was paid, a 32M certificate came to be issued in respect of four properties, namely Survey No.77 Part, Survey No.78 Part, Survey No.80 and Survey No.94.

9. In the meantime, Respondent No.1 challenged the order dated 26 March 1994 passed by the Tahsildar and Agricultural Lands Tribunal by filing Tenancy Appeal No.20/2000. The Sub-Divisional Officer, Thane, partly allowed the said appeal and remanded the matter for fresh consideration. The Petitioner filed Tenancy Revision No.3986/2002 challenging the order of the Sub-Divisional Officer, but subsequently withdrew the said Revision. In the third round of enquiry under Section 70(b), the Tahsildar, Kalyan, allowed the application after remand and, by order dated 31 October 2008, declared Respondent Nos.1 and 2 to be tenants in respect of Survey No.80. The said order was challenged by filing Tenancy Appeal No.13/2009. The Sub-

Divisional Officer, Thane, dismissed the appeal by order dated 21 April 2010. The President of the Maharashtra Revenue Tribunal confirmed both the orders dated 31 October 2008 and 21 April 2010 by dismissing Tenancy Revision No.297/B/2010 by the impugned order dated 5 February 2014.

10. The learned Advocate submitted that the Petitioner has not produced or annexed any order under Section 32G with the Petition because there was in fact no such order in respect of Survey No.80. According to him, the purchase price was fixed only in respect of two properties, namely Survey No.77 Part and Survey No.78 Part. He submitted that the entire case of the Petitioner is based upon the 32M certificate dated 16 April 1994. However, on a proper reading of the said 32M certificate, it becomes clear that the purchase price of Rs.959/- was fixed only in respect of Survey No.77 Part and Survey No.78 Part. No purchase price in respect of Survey No.80 or Survey No.94 was ever fixed under Section 32G. Therefore, according to the learned Advocate, there could be no valid question of issuing a certificate under Section 32M in respect of Survey No.80 or Survey No.94 on the basis of the said proceedings.

11. The learned Advocate submitted that the President of the Maharashtra Revenue Tribunal had correctly observed that Survey No.80 was never purchased by the predecessor of the present Petitioner, namely Budhya, during his lifetime. He submitted that the declaration of tenancy in favour of Respondent Nos.1 and 2 was based upon a Report which was

signed by some of the landlords. According to him, no satisfactory or proper explanation was given as to why the landlords had signed the said Report, which recorded that Respondent Nos.1 and 2 were in possession of Survey No.80 as tenants. He therefore submitted that the findings recorded by the authorities and the Tribunal were proper and supported by the material on record and, consequently, the present Petition deserved to be dismissed.

Reasons and Analysis

12. I have considered the Petition, the submissions made by the learned Advocates appearing for both sides, the proceedings which were before the authorities below and the impugned order passed by the Maharashtra Revenue Tribunal. Therefore, the question is whether the finding given by the Tahsildar and Agricultural Lands Tribunal and confirmed by the Sub-Divisional Officer, that Respondent Nos.1 and 2 were tenants of the disputed land, is such that this Court should interfere with that finding while exercising powers under Articles 226 and 227 of the Constitution of India.

13. At the outset, one factual aspect appearing from the record needs to be noticed. On the first page of the impugned order passed by the Maharashtra Revenue Tribunal, Survey No.18 is mentioned. However, if the whole proceedings are seen, including the mutation entries, the application under Section 70(b), the submissions of both sides and the discussion in the

later part of the same order, it is clear that the actual dispute is regarding Survey No.80. The earlier history of the proceedings is required to be seen. Respondent Nos.1 and 2 had first approached the tenancy authority in the year 1988 seeking a declaration that they were tenants. Their application was dismissed. They then filed an appeal and the matter was remanded. Even after remand, their claim was again rejected., Tenancy Appeal No.20 of 2000 was allowed and the matter was again sent back for considering Form No.4 and the panchanama. The Revision filed by the present Petitioners against that order was subsequently withdrawn, the Tahsildar and Agricultural Lands Tribunal again considered the matter and, by order dated 31 October 2008, declared Respondent Nos.1 and 2 as tenants. The appeal against that order was dismissed by the Sub-Divisional Officer on 21 April 2010., the Maharashtra Revenue Tribunal dismissed Tenancy Revision No.297/B/2010 on 5 February 2014. These facts are found in the impugned judgment. It is necessary to notice that the present Petitioners were not parties to the proceedings when the first order of remand was passed. However, they applied for being joined as parties. Their application was allowed and they participated in the proceedings after the first remand. Therefore, when the matter was considered by the Tahsildar, the persons who are now claiming interest in the land had an opportunity to place their case before the authority and to produce the material and evidence which they wanted to rely upon.

14. The main submission of the learned Advocate for the Petitioner is that the predecessor of the Petitioners, namely Jaitya Dharma Patil, was recorded as a protected tenant by Mutation Entry No.214 dated 2 December 1954. It is submitted that Mutation Entry No.233 dated 20 February 1955 recorded the name of Budhya Jaitu Sorkhade as his heir and later Mutation Entry No.408 dated 25 January 1976 recorded the names of the legal heirs. It is submitted that proceedings under Section 32G resulted in fixation of the purchase price and, after the purchase price was paid, a certificate under Section 32M was issued.

15. According to the Petitioner, all this material shows the Petitioner's interest in the land and, therefore, there was no proper basis to declare Respondent Nos.1 and 2 as tenants. However, there is some difficulty in accepting this submission because of the manner in which Mutation Entry No.214 appears from the record. The learned Member of the Tribunal noticed that Mutation Entry No.214 dated 2 December 1954 records Jaitya Dharma Patil as a protected tenant. But Mutation Entry No.233 dated 20 February 1955 states that Jaitya Dharma Patil had died about three years earlier and, therefore, the name of his son Budhya Jaitu Sorkhade was entered as his heir. Thus, there is an apparent difference between the two entries. If Jaitya had died about three years before 20 February 1955, then the entry dated 2 December 1954 showing him as cultivating the land requires some consideration. This is not a doubt created

without any basis. It comes from the revenue entries. Therefore, the Tribunal was justified in observing that Mutation Entry No.214 could not be treated as sufficient proof of tenancy without considering the other material.

16. The learned Advocate for the Petitioner has relied upon Mutation Entry No.408 dated 25 January 1976. This entry records the heirs of Budhya Sorkhade in respect of several lands. But this entry does not decide the question which was before the authority under Section 70(b), namely whether Respondent Nos.1 and 2 were tenants of Survey No.80. A mutation entry records a change in the revenue record. Merely because a person's name is entered in the record, it cannot decide every dispute regarding the status of that person. Therefore, the authorities were required to consider the entire material and could not decide the question only on the basis of Mutation Entry No.408.

17. The more important submission of the Petitioner is regarding Sections 32G and 32M. The Petitioner relies upon the certificate under Section 32M and submits that the purchase price had been fixed and paid. On the other hand, Respondent No.1 has specifically submitted that no order under Section 32G was ever passed in respect of Survey No.80. According to Respondent No.1, the proceedings under Section 32G related only to Survey No.77 Part and Survey No.78 Part and the purchase price of Rs.749/-, which was later recalculated as Rs.959/-, was fixed only in respect of those two lands. This

submission is found in the material placed before the Court.

18. The record of the Maharashtra Revenue Tribunal shows that the dispute regarding the Section 32G proceedings is a real dispute. In paragraph 4 of the impugned order, the Tribunal considered the mutation entries and other documents. The entries relied upon by the Petitioners were considered along with the other material. More importantly, the case of the Respondent was that there was no fixation of purchase price under Section 32G in respect of Survey No.80. Therefore, merely producing a document described as a 32M certificate does not conclude the matter.

19. The actual question before the tenancy authority was whether Respondent Nos.1 and 2 were tenants in respect of Survey No.80. The enquiry under Section 70(b) is required to decide the question of tenancy on the basis of the material placed before the authority.

20. On this aspect, the material is not as one-sided as the Petitioner submits. The 7/12 extracts of 1987-88 were before the Tribunal. The impugned order records that the names of Respondent Nos.1 and 2 appeared in the Other Rights and cultivation columns to the extent of one-half share each and that paddy was shown to have been grown. Their names were recorded as tenants of Survey No.80 by Mutation Entry No.501 dated 29 October 1987. This entry was certified on 5 February 1988. Therefore, the case of Respondent Nos.1 and 2 was not

only a claim made for the first time in their application. There was some revenue material existing even before the application, which was required to be considered.

21. The learned Advocate for the Petitioner has challenged Mutation Entry No.501. It is submitted that the name of the Petitioner's predecessor was deleted and the names of Respondent Nos.1 and 2 were inserted on the basis of Hissa Form No.4. It is submitted that even earlier an attempt was made to enter their names through Mutation Entry No.125 dated 27 March 1977, but that entry was cancelled because Hissa Form No.12 was not available for verification. This aspect was considered by the revenue authorities. The Tribunal noticed that the Additional Commissioner had examined the challenge to Mutation Entry No.501. The Additional Commissioner observed that there was no Consolidation Scheme available and that Hissa Forms Nos.4 and 12 were not available in the record. The Tribunal noticed that if Hissa Forms Nos.4 and 12 had actually been prepared for division of a survey number, there would ordinarily be some material regarding measurement and the necessary notices. In the absence of such supporting material, the Tribunal agreed with the view of the Sub-Divisional Officer that the remaining evidence should be considered. In my view, this approach cannot be said to be unreasonable. Mutation Entry No.501 cannot be treated as conclusive proof of tenancy. At the same time, its existence cannot be ignored. The proper course was to see whether the said entry received support from

other independent material. The Tribunal did consider the remaining material.

22. There is another important circumstance. The impugned order records that the Revision Applicants did not produce assessment receipts, rent receipts or other documents to show that they were cultivating the disputed land. This was noticed by the Tribunal in paragraph 7 of the impugned order. When both sides are claiming tenancy and cultivation, the absence of any contemporaneous document from the Petitioners showing their actual cultivation becomes a relevant circumstance. It may not be enough to reject their case, but when considered with the other evidence, it certainly affects the weight which can be given to their claim. The learned Advocate for the Respondent submitted that the scope of enquiry under Section 70(b) is to decide, on the basis of the material placed before the authority, whether the applicant is a tenant or not. This submission is correct to this extent. The authority is required to consider the relevant revenue entries, cultivation records, documents, panchanama and oral evidence and decide the statutory question. The enquiry cannot be decided only by looking at one mutation entry or one certificate and ignoring the remaining material. The oral evidence is required to be considered. Respondent Nos.1 and 2 entered the witness box. They examined two witnesses, namely Gorakshanath Jairam Patil and Gajanan Shankar Patil. The impugned order records that both witnesses were residents of the same village and were adjoining

landlords. The Petitioners challenged their evidence on the ground of political differences. The Tribunal noticed that both witnesses had admitted the political differences and the fact that there was no regular interaction with the Revision Applicants. Therefore, their evidence was not accepted without considering these weaknesses. At the same time, the Tribunal did not find that their entire evidence was required to be discarded.

23. Therefore, the evidence of these witnesses has to be considered with some caution, but it cannot be treated as useless only because they had some differences with the Petitioners. A witness having political rivalry may require careful consideration. But that circumstance alone does not make every statement of such witness false. The Tribunal noticed the weaknesses in their evidence and considered the same along with the other material. In my view, this was the proper approach. The evidence produced by the Petitioners has some limitations. Abhiman Sorkhade, whose statement is referred to in paragraph 9 of the impugned order, admitted in cross-examination that he did not know some material facts concerning the landlord. He admitted that the Revision Applicants had other lands as tenants of the same landlord and that those lands were sold to them under the Tenancy Act. The Petitioners submitted that if other lands had been sold to them, there was no reason why the disputed land should not have been sold. But such conclusion cannot be drawn merely because other lands were purchased. The position of each land has to be

established on its own material. The panchanama dated 19 August 2000 is one of the circumstances which requires consideration. According to the Tribunal, the panchanama prepared by the Naib Tahsildar recorded that Respondent Nos.1 and 2 were in actual possession of Survey No.80, that paddy was grown there and that they had been cultivating the land for about 50 years. The panchanama was signed by Hanuman Sorkhade, who was Revision Applicant No.3. In his cross-examination, Hanuman stated that the contents of the panchanama were not read over to him. He denied that the Naib Tahsildar had visited the land. These circumstances certainly affect the weight which can be given to the panchanama from the Petitioner's side. Still, the document forms part of the record and its contents have to be considered along with the other evidence.

24. The evidence of Sambhaji Navale, who was examined on behalf of the Revision Applicants, does not give a complete answer. He stated that the disputed land was in possession of the Revision Applicants. However, in cross-examination, he admitted that he was the brother-in-law of Revision Applicant No.5. He admitted that Respondent Nos.1 and 2 had no land other than the disputed land and that they were agriculturists residing in the village. When he was asked about the ownership of the disputed land, he stated that Ramchandra Budhaji Sorkhade was the owner. Therefore, even this witness did not by himself establish that the Petitioners were actually cultivating

the disputed land as tenants. The Tribunal was therefore justified in considering his evidence along with the whole material instead of treating it as conclusive proof.

25. Another circumstance needs to be noticed. Respondent No.3, who was the landlord, did not come forward to support either side. It was common between the parties that no rent receipts were being issued. Therefore, the absence of a rent receipt cannot be treated as decisive against Respondent Nos.1 and 2. In such circumstances, greater importance is required to be given to the material regarding actual cultivation, revenue entries and other surrounding circumstances.

26. If the whole record is considered together, the Petitioners cannot be said to have an unbroken documentary case. Mutation Entry No.214 has the difficulty noticed by the Tribunal regarding the date of death of Jaitya Dharma Patil. Mutation Entry No.501 was challenged and the supporting Hissa Forms were not available. The Section 32G proceedings relied upon by the Petitioners are disputed so far as Survey No.80 is concerned. Therefore, the 32M certificate cannot be considered separately from the proceedings on the basis of which the purchase price was fixed. At the same time, the case of Respondent Nos.1 and 2 does not have a perfect documentary record. Their case mainly rests upon the revenue entries, the subsequent mutation, cultivation entries, the panchanama and oral evidence.

27. The question then is whether this material was sufficient for the statutory authority to hold that Respondent Nos.1 and 2 were tenants. In my view, it was sufficient. There was revenue material showing their names as tenants and cultivators in 1987-88. Their application under Section 70(b) was filed in 1988. There was the panchanama dated 19 August 2000 recording possession and cultivation. There was oral evidence supporting their actual cultivation, though such evidence was not free from weaknesses. The absence of rent receipts was common to both sides. On the other hand, the Petitioners did not produce contemporaneous cultivation receipts or other convincing documents showing that they were actually cultivating Survey No.80.

28. In revision the Court should not replace the factual view of the authorities below by its own view when those authorities have considered the evidence and arrived at a possible conclusion. In the present case, the Tahsildar and Agricultural Lands Tribunal considered the evidence and declared Respondent Nos.1 and 2 as tenants. The Sub-Divisional Officer considered the matter and confirmed that finding. The Maharashtra Revenue Tribunal considered the documentary and oral evidence and refused to interfere. In the final paragraph of the impugned order, the Tribunal recorded that, looking at the “overall view of documents and oral evidence”, the view taken by the Tahsildar and Sub-Divisional Officer could not be said to be “a perverse view or based on inadmissible evidence.”

29. I have considered the material independently, but only for the purpose of seeing whether the conclusion reached by the authorities has relevant and admissible material in its support and whether any important evidence has been ignored. I do not find that the authorities below decided the matter on an irrelevant basis or left out any vital material which could affect the result. The findings cannot be called perverse. It may be possible to take a different view of some individual documents, particularly the old mutation entries or the oral evidence. But merely because another view may be possible, that is not enough to interfere under Articles 226 and 227 of the Constitution.

30. On considering the matter as a whole, the Petitioners have not shown that the declaration of tenancy in favour of Respondent Nos.1 and 2 was based on no evidence, inadmissible evidence or a conclusion which could not legally be reached. They have not shown that the concurrent findings are perverse or that the Maharashtra Revenue Tribunal acted illegally in refusing to interfere with those findings. The fact that some documents may be capable of another interpretation is not sufficient to interfere under Articles 226 and 227.

31. In these circumstances, I find that the impugned judgment and order dated 5 February 2014 passed by the President, Maharashtra Revenue Tribunal, Mumbai, in Tenancy Revision No.297/B/2010 does not require interference. The findings recorded by the Tahsildar and Agricultural Lands Tribunal,

Kalyan, by order dated 31 October 2008 and confirmed by the Sub-Divisional Officer, Thane, by order dated 21 April 2010, are supported by the material available on record. They do not suffer from such perversity or jurisdictional error as would require interference by this Court.

32. In view of the foregoing discussion and for the reasons recorded hereinabove, the following order is passed:-

- i. The Writ Petition is dismissed;
- ii. The judgment and order dated 05.02.2014 passed by the learned President, Maharashtra Revenue Tribunal, Mumbai, in Tenancy Revision No.297/B/2010 is upheld;
- iii. The order dated 31.10.2008 passed by the Tahsildar and Agricultural Lands Tribunal, Kalyan, declaring Respondent Nos.1 and 2 as tenants in respect of Survey No.80, situated at Village Dawadi, Taluka Kalyan, District Thane, and the order dated 21.04.2010 passed by the Sub-Divisional Officer, Thane, confirming the said order, are also upheld;
- iv. It is clarified that the present order is confined to the issue arising under Section 70(b) of the Maharashtra Tenancy and Agricultural Lands Act, 1948, namely, whether Respondent Nos.1 and 2 are

tenants in respect of Survey No.80. This Court has not exercised appellate jurisdiction over the certificate issued under Section 32M and has not adjudicated any independent or larger question of title, except to the extent necessary for deciding the present Writ Petition;

- v. Rule is discharged;
- vi. There shall be no order as to costs.

(AMIT BORKAR, J.)