



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3499 OF 2022

- | | | |
|---|-------|------------------------------|
| 1. Shantaram Haribhau Dighe, |] | |
| (since deceased, through LR) |] | |
|
1A. Laxmi Shantaram Dighe |
] | |
| Aged about 62 years, |] | |
| Occupation : Household, |] | |
|
1B. Kailas Shantaram Dighe, |
] | |
| Aged about 35 years, |] | |
| Occupation : Agriculturist, |] | |
|
1C. Vilas Shantaram Dighe, |
] | |
| Aged about 32 years, |] | |
| Occupation : Agriculturist, |] | |
| Nos. 1A to 1C are R/o. Post Bhivadi |] | |
| Taluka : Purandar, District : Pune. |] | |
|
1D. Vaishali Dhananjay Tupe, |
] | |
| Aged about 30 years, |] | |
| Occupation : Household, |] | |
| R/o. Uralikanchan, Tupe Vasti, |] | |
| Tal. Haveli, District : Pune |] | |
| |] | <u>...Petitioners</u> |

Versus

- | | | |
|---------------------------------------|-------|--|
| 1. Sahebrao Rangu Dighe, |] | |
| Age Adult, Occu : Agriculture, |] | |
| R/at. Bhiwadi, Tal. Purandar, |] | |
| District : Pune. |] | |
|
2. Dilip Govind Dighe, |
] | |
| Age Adult, Occu : Agriculture, |] | |
| R/at. Bhiwadi, Tal. Purandar, |] | |
| District : Pune |] | |
|
3. Bebi Raghunath Pangare, |
] | |
| Age. Adult, Occu : Housewife, |] | |
| R/at. Velu, Tal. Bhor, |] | |
| District : Pune |] | |

4. **Lahu Maruti Dighe,**]
(since deceased, through LR)]
- 4a. **Manda Lahu Dighe**]
R/at. Bhiwadi, Tal. Purandar,]
District : Pune]
- 4b. **Nagesh Lahu Dighe**]
R/at. Bhiwadi, Tal. Purandar,]
District : Pune]
- 4c. **Sonali Manik Lvande**]
R/at. Sighapur, Tal. Purandar,]
District : Pune]
- 4d. **Archna Somnath Jagtap**]
R/at. Amble, Tal. Purandar,]
District : Pune]
- 4e. **Jayshri Knifnath Kare**]
R/at. Sighapur, Tal. Purandar,]
District : Pune]
5. **Shivaji Govind Dighe**]
Age. Adult, Occu : Agriculture,]
R/at. Bhiwadi, Tal. Purandar,]
District : Pune]
6. **Baidabai Laxman Dhadve,**]
Age. Adult, Occu : Housewife,]
R/at. Sarole, Tal. Bhor,]
District : Pune]
7. **Shobha Mohan Raut,**]
Age. Adult, Occu : Housewife,]
R/at. Palsi, Tal. Khandala,]
District : Satara]
8. **Chhaya Abhimanyu Borkar,**]
Age. Adult, Occu : Housewife,]
R/at. Narayanpur, Taluka : Purandar,]
District : Pune.]
9. **Janabai Mahadev Dighe,**]
Age. Adult, Occu : housewife,]
R/at. Bhiwadi, Tal. Purandar,]
District : Pune.]

10. **Vatsala Maruti Dighe,**]
(since deceased)]
- 10.a **Smt. Sushila Laxman Poman**]
R/at. Pimple, Tal. Purandar,]
District : Pune.]
- 10.b **Alka Dattatray Fadtare**]
R/at. Devadi, Tal. Purandar, District : Pune.]
- 10.c **Bebi Raghunath Pangre**]
R/at. Velu, Tal. Bhor,]
District : Pune]
- 10.d **Sanjay Maruti Dighe – (Son)**]
R/at. Bhivadi, Tal. Purandar, District : Pune]
11. **Sushila Laxman Poman,**]
Age. Adult, Occu : Housewife,]
R/at. Pimple, Tal. Purandar,]
District : Pune]
12. **Muktabai Govind Dighe,**]
Age. Adult, Occu : Housewife,]
R/at. Bhiwadi, Tal. Purandar,]
District : Pune]
13. **Alka Dattatray Phadtare,**]
Age. Adult, Occu : Housewife,]
R/at. Devadi, Tal. Purandar,]
District : Pune]
14. **Jayant Dattatraya Purandare,**]
Age. Adult, Occu : Agriculturist,]
R/at. 76, Budhwar Peth, Bhidewada,]
Pune – 411 002.]
15. **Anil Dattatraya Purandare,**]
Age. Adult, Occu : Agriculturist,]
R/at. 76, Budhwar Peth, Bhidewada,]
Pune – 411 002.]
16. **Sudhir Dattatraya Purandare,**]
Age. Adult, Occu : Agriculturist,]
R/at. 76, Budhwar Peth, Bhidewada,]
Pune – 411 002.]

17. **State of Maharashtra,**]
(Notice to be served on the A.G.P. High]
Court, Mumbai)]

Mr. Sachin K. Hande for Respondent.
Mr. Ramdas Hake Patil for Petitioner.
Mr. Aditya R. Deokhar, AGP for State.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 22nd June, 2026

Oral Judgment :

1. **Rule.** Rule made returnable forthwith and taken up for final disposal with consent.
2. By the present Petition, the challenge is at the instance of the Revision Applicants to the order dated 9th November, 2021 passed by Maharashtra Revenue Tribunal [for short, "**MRT**"] dismissing the revision application.
3. The brief facts required to be noted is that the Petitioner's predecessor had filed an application under Section 32G of Maharashtra Tenancy and Agricultural Lands Act, 1948 [for short, "**Tenancy Act**"] seeking fixation of purchase price which came to be allowed by the Tahsildar on 9th February, 2013. As against the order of Tahsildhar, the Respondents filed Tenancy Appeal No. 13 of 2016 before the Sub Divisional Officer. The Appeal was filed by 13 Appellants and the Sub-Divisional Officer came to a finding that the original Applicant in Section 32G proceeding being the heir of Shrihari Bala Dighe, could not

have filed the proceedings under Section 32G of Tenancy Act, as the previous orders held that Shrihari Bala Dighe did not have any right in the suit property. The Sub-Divisional Officer allowed the Appeal by order dated 23rd April, 2018. As against the order of Sub-Divisional Officer, the Tenancy Revision Application 16 of 2018 came to be filed and the impugned order was passed rejecting the revision application. Hence, the Petition.

4. Learned counsel appearing for the Petitioners submits that the revision Application was preferred against the order passed by Sub-Divisional Officer in Appeal proceedings which Appeal was filed by the Respondents herein. He submits that the learned Member of MRT has dismissed the application on two grounds i.e. none were present on behalf of the revision applicant before the MRT and secondly, during the pendency of proceedings before the SDO, the Appellant Nos. 4 and 10 had expired and no steps were taken. He submits that as the appeal was filed by the Respondents, the responsibility was upon the Respondents to adopt appropriate proceedings for bringing the legal heirs of deceased Appellant Nos. 4 and 10 on record and for the said default, the Petitioner's Revision Application could not have been dismissed.

5. *Per contra*, learned counsel appearing for Respondent submits that learned Member of the MRT has dismissed the application for non-

prosecution and the regulation provides for filing of application for restoration before the same Court, which opportunity could have been availed by the Petitioner's herein.

6. I have perused the impugned order dated 9th November, 2021.

7. The impugned order indicates that the Advocate for Revision Applicant was not present on 9th November, 2021 i.e. on the date of the impugned order. The learned Member of MRT noted the submissions of Learned Counsel for the Respondents that the Respondent No 4 had expired on 17th January, 2018 and Respondent No 10 had expired on 24th December, 2016. The Respondent No 10 had expired before the passing of the order dated 23rd April, 2018 by the Sub Divisional Officer and therefore the order is nullity. It was also submitted that the revision application cannot proceed before the MRT and be dismissed.

8. The learned Member of MRT has noted the absence of the Advocate for the Revision Applicants to hold that the Revision Applicants does not appear to have any interest in prosecuting the Revision. It further held that as in the proceedings before the Sub Divisional Officer, the Appellant no 10 had expired, the order is a nullity and hence the revision application against such order cannot be proceeded with. The learned Member of MRT failed to notice that the proceedings would abate *qua* the deceased parties and the entire order cannot be termed as nullity.

9. The impugned order indicates that the revision application is not dismissed simplicitor for non prosecution due to absence of Advocate for Revision Applicant, but has taken into consideration the submission canvassed on behalf of the Advocate for the Respondents that as the Appellant No 4 and 10 before the Sub Divisional Officer had expired, the order was a nullity and therefore revision would not lie. The reliance placed on Regulation 20 is misconceived as the dismissal was not for non prosecution.

10. The Appellants before the Sub Divisional Officer were the Respondents before the MRT, who themselves termed the order as nullity. The responsibility was upon the Appellants to bring on the record the legal heirs of the deceased Appellant No 4 and Appellant No 10. The appropriate course was to set aside the order of Sub Divisional Officer dated 23rd April, 2018 and to permit the Appellants to bring the legal heirs of the deceased on record and thereafter to decide the Appeal. This Court is informed that that during the pendency of the present proceedings, the Respondent No. 10(d) has expired.

11. In view of the above discussion, it would be appropriate if the impugned order dated 9th November, 2021 passed by the MRT and the order dated 23rd April, 2018 passed by the Sub Divisional Officer is quashed and set aside. As the death of Appellant Nos. 4 and 10 has resulted in abatement of proceedings *qua* the Appellant Nos. 4 and 10,

in my view, the Appellants are required to be given an opportunity to bring the legal heirs of the deceased parties on record and thereafter the Tenancy Appeal be tried afresh.

12. Resultantly, the order of 23rd April, 2018 passed by Sub Divisional Officer in Tenancy Appeal No. 13 of 2016 and the order of MRT dated 9th November, 2021 passed in Revision Application No. 16 of 2018 are hereby quashed and set aside.

13. Tenancy Appeal No. 13 of 2016 is restored to file of Sub-Divisional Officer be heard afresh.

14. Necessary application to be moved before the Sub-Divisional Officer for bringing the legal heirs of deceased parties on record. Upon the legal heirs being brought on record, the Sub-Divisional Officer to hear the Appeal afresh.

15. All rights and contentions of all the parties on merits is kept open.

16. Writ Petition stands disposed of. Rule is made absolute in the above terms.

17. Nothing survives for consideration in pending Applications, if any, and the same stand disposed of.

[SHARMILA U. DESHMUKH, J.]