

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1221 OF 2025

SAINATH
SANJAY
BODKHE

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SAINATH SANJAY
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Date: 2026.08.18
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Babu Ganpat @ Ganu Thakare
Deceased through Legal Heir
Sonubai Narayan Vishe
Age : 66 years,
R/o. Village – Pashane,
Post – Monivali, Tq. Karjat,
Dist. Thane, through POA,
Surendra Narayan Vishe.
R/o. Village – Pashane,
Post – Monivali, Tq. Karjat, Dist. Thane

..Petitioner

Versus

1. State of Maharashtra
Revenue & Forest Dept.,
Mantralaya, Mumbai.
2. Sakharam Janu Thakare
R/o. Village – Pali, Tq. Ambarnath,
Dist. Thane.
3. Maruti Hiru Bhalekar
Since deceased through LRs
- 3.1 Bhimabai Maruti Bhalekar
- 3.2 Nandu Maruti Bhalekar
- 3.3 Shaila Bhaskar Farde
- 3.4 Sunita Santosh Dhanke
- 3.5 Naresh Maruti Bhalekar
- 3.6 Usha Mangesh Bhalekar

3.7 Harshal Mangesh Bhalekar

3.8 Raj Mangesh Bhalekar

All R/o Village – Chikhloli,
V Rubber Company, Forest Naka
Badlapur – Kalyan Road,
Tq. Ambarnath, Dist. Thane.

4. Balu @ Balya Pandu Patil
Since deceased through LR's

4.1 Barku Balu @ Balya Patil

4.2 Dattatray Motiram Patil
Both R/o Village – Narhen,
Tq. Ambarnath, Dist. Thane.

...Respondents

Mr. Aniket Ranade, for the Petitioner.

Mr. Vijay Killedar, for Respondent Nos.2, 3.1, 3.2, 3.4 to 3.6.

Mr. Y D Patil, AGP for Respondent No.1 - State.

CORAM : N. J. JAMADAR, J.

RESERVED ON : 28th JULY 2026

PRONOUNCED ON : 18th AUGUST 2026

JUDGMENT:

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.

2. By this petition under Article 227 of the Constitution of India, the petitioner assails the legality, propriety and

correctness of a judgment and order dated 08th October, 2024 passed by the learned President, Maharashtra Revenue Tribunal, Mumbai (“MRT”) in Revision Application being Tenancy Revision No. TNC/REV/THN/223/2022, whereby the revision application preferred by the petitioner against a judgment and order dated 27th June 2022 passed by the Sub Divisional Officer, Ulhasnagar in Tenancy Appeal No. 10/2021 thereby dismissing the appeal preferred by the petitioner against an order dated 03rd February, 2021 passed by the Agricultural Lands Tribunal, Ambernath (“ALT”), came to be dismissed.

3. By the said order dated 03rd February, 2021, the ALT declared that, late Babu Ganpat was not a tenant in respect of the land bearing Survey No. 145/4 and 145/7 situated at Mouje Narhen, Tq. Ambernath, Dist. Thane (“the subject lands”) and dismissed an application preferred by the petitioner for fixing the purchase price in respect of the subject lands under Section 32G of the Maharashtra Tenancy and Agricultural Lands Act, 1948 (“the Act, 1948”).

4. The background facts leading to this petition can be summarized as under :-

4.1 Balu @ Balya Pandu Patil was the original holder of the subject lands. Vide Mutation Entry No. 488 dated 10th September, 1954, the name of Babu Ganpat was entered into the record of rights as a protected tenant in respect of the subject lands. It appears, vide a subsequent Mutation Entry No. 620, the name of said Babu Ganpat was deleted on the premise that since the year 1955 – 1956, Babu Ganpat was not cultivating the subject lands and the holder Balu Pandu Patil was himself cultivating the subject lands.

4.2 Balu Pandu Patil sold the land bearing Survey No. 145/7 to Sakharam Janu Thakare – Respondent No.2, and Survey No. 145/4 to Sakharam Janu Thakare (R-2) and Maruti Hiru Bhalekar (Deceased) – Respondent No.3, jointly under the registered sale deeds dated 19th May, 1967 and 15th April, 1976, respectively. The names of the Respondent Nos. 2 and 3 were mutated to the record of rights of the subject lands as holders thereof. The name of Babu Ganpat however continued to be reflected in the other rights column.

4.3 Babu Ganpat passed away on 09th September, 1981. The petitioner claimed to be the daughter of late Babu Ganpat. The petitioner filed an application before the Tahsildar to mutate her

name to the lands left behind by late Babu Ganpat. Vide Mutation Entry No. 333, the name of the petitioner came to be mutated to the agricultural lands purportedly left behind by late Babu Ganpat, as his daughter. The petitioner claimed that, though in the said Mutation Entry No. 333, the holder of the lands was shown as Babu Ganpat @ Babu Ganu Thakare, yet, Babu Ganpat and Babu Ganu Thakare were one and the same person.

4.4 In the meanwhile, the Respondent Nos. 2 and 3 filed an application before the ALT under Section 70(b) of the Act, 1948 seeking a declaration that, Babu Ganpat was not a tenant in respect of the subject lands on the tiller's day. It was further contended that, the petitioner was not the daughter of said Babu Ganpat.

4.5 The petitioner, in turn, filed an application under Section 32G of the Act, 1948 seeking fixation of the purchase price on the premise that, her father had become a deemed purchaser of the subject lands on the tiller's day as her father was cultivating the subject lands as a tenant thereof.

4.6 After a round of litigation, the matter came to be remanded back to the ALT to determine whether Babu Ganpat whose name

was entered in the record of rights as a tenant was ever alive, and whether the said person was cultivating the subject lands ?

4.7 Upon remand, the ALT recorded the evidence adduced by the parties and after appraisal of the evidence came to the conclusion that, the petitioner failed to substantiate her claim that Babu Ganpat and Babu Ganu Thakare were one and the same person, and that the said person was cultivating the subject lands as a tenant thereof and, therefore, the petitioner was not entitled to fixation of the purchase price in respect of the subject lands. Resultantly, the ALT directed that the name of “Babu Ganpat” be deleted from the record of rights of the subject lands and also went on to dismiss the application preferred by the petitioner under Section 32G of the Act, 1948.

4.8 The petitioner carried the matter in appeal before the Sub-Divisional Officer. The latter concurred with the view of the ALT and dismissed the Appeal.

4.9 Being aggrieved, the petitioner preferred a revision before the MRT. By the impugned judgment and order, the MRT dismissed the revision opining, *inter alia*, that, there was no error which would warrant interference by the MRT with the

impugned orders passed by the authorities below in exercise of its limited revisional jurisdiction.

4.10 Being further aggrieved, the petitioner has invoked the writ jurisdiction of this Court.

5. I have heard Mr. Aniket Ranade, the learned Counsel for the Petitioner, Mr. Y. D. Patil, the learned AGP for the Respondent No.1 – State, and Mr. Vijay Killedar, the learned Counsel for Respondent No. 2, 3.1, 3.2, 3.4 to 3.6, at some length. With the assistance of learned Counsel for the parties, I have also perused the material on record.

6. Mr. Aniket Ranade, the learned Counsel for the Petitioner, submitted that the authorities under the Act, 1948 have completely misdirected themselves in making a declaration that the Babu Ganpat, the father of the Petitioner, was not the tenant, despite certification of Mutation Entry No. 488, dated 10th September 1954, under which the name of Babu Ganpat was mutated as the protected tenant in respect of the subject lands. Reliance on the Mutation Entry No. 620, which came to be certified on 24th September 1960, was wholly misplaced as on the tiller's day, late Babu Ganpat was cultivating the subject lands and consequently he became a deemed purchaser.

Certification of a Mutation Entry in the year 1960 to the effect that since 1955-1956, the original land holder started to personally cultivate the subject lands and late Babu Ganpat ceased to cultivate the same was, at best, self-serving. Such a Mutation Entry could not have been made the basis of the determination and thereby defeat the statutory rights accrued to Babu Ganpat on the tiller's day.

7. Secondly, Mr. Ranade would urge, the deceased-Respondent No.3, Maruti Bhalekar had sworn an affidavit categorically acknowledging that late Babu Ganpat @ Babu Ganu Thakare, the predecessor-in-title of the Petitioner, was the tenant in respect of the subject lands and the Petitioner was the legal heir of late Babu Ganpat, and that Respondent No. 3 had no objection to mutate the name of the Petitioner in the Record of Rights in that capacity. None of the authorities has dealt with the implications of the said admission.

8. Thirdly, the ALT and SDO have proceeded on an erroneous premise that, there were two different death certificates and the Petitioner failed to establish that Babu Ganpat and Babu Ganu Thakare were one and the same person and she was the daughter of Babu Ganpat.

9. In opposition to this, Mr. Vijay Killedar, the learned Counsel for Respondent Nos.2, 3.1, 3.2, 3.4 to 3.6, would submit that the authorities under the Act, 1948 have recorded concurrent findings of fact that the Petitioner failed to establish that Babu Ganpat and Babu Ganu Thakare were one and the same person and the Petitioner was the daughter of Babu Ganpat. Secondly, the authorities on the basis of the objective material have arrived at a finding that Babu Ganpat was not cultivating the subject lands on the tiller's day. Such findings of fact are not open for interference even in exercise of the revisional jurisdiction by the MRT, much less in exercise of its supervisory jurisdiction by this Court in a Petition which assails the order passed by the MRT. Those findings of fact can neither be said to be perverse nor contrary to the provisions of the Act, 1948. In substance, there is neither an error of jurisdiction nor patent illegality in the impugned orders which would warrant interference in exercise of the extraordinary writ jurisdiction.

10. On the merits of the matter, Mr. Killedar would urge that the original purported affidavit of deceased Respondent No.2 was never produced before the authorities under the Act, 1948. Secondly, there is a material discrepancy in the copy of the

affidavit annexed to the Petition and a copy of the said affidavit which was served on the contesting Respondents. An inference, thus, becomes inescapable that the said affidavit is forged and fabricated.

11. Thirdly, on the aspect of the identity of Babu Ganpat @ Babu Ganu Thakare, the two death certificates recording different dates of death of Babu Ganpat erode the credibility of the claim of the Petitioner that she is the daughter of late Babu Ganpat. Neither any heirship certificate nor any other document was placed on record to substantiate the claim of the Petitioner that she is the daughter of late Babu Ganpat. The failure on the part of the petitioner to produce even an iota of evidence to show that the Petitioner ever cultivated the subject lands after the demise of Babu Ganpat further dents the Petitioner's claim, urged Mr. Killedar.

12. In the backdrop of the aforesaid infirmities in the case of the Petitioner which stare in the face, the authorities under the Act, 1948 have justifiably exercised the jurisdiction to make a declaration that Babu Ganpat was not the tenant in respect of the subject lands and the Petitioner was not entitled to a certificate under Section 32G of the Act, 1948.

13. I have given careful consideration to the rival submissions canvassed across the bar. At the outset, it is necessary to note that the discrepancy in the date of death of Babu Ganpat and the absence of material to show that Babu Ganpat and the Petitioner were cultivating the subject lands and paid the rent/premium to the landlord, predominantly weighed with the authorities under the Act, 1948, submitted Mr. Killedar.

14. Since this Petition assails an order passed by the MRT in exercise of its revisional jurisdiction under Section 76 of the Act, 1948, it may be apposite to first appreciate the jurisdictional constraints of the MRT and this Court in exercise of its writ jurisdiction against an order passed by the MRT in exercise of its revisional jurisdiction.

15. To retain emphasis, and appreciate the contours of the jurisdictional limitations of the MRT, section 76 is extracted below :-

“S. 76 Revision : (1) Notwithstanding anything contained in the Bombay Revenue Tribunal Act, 1939, 1 an application for revision may be made to the [Maharashtra Revenue Tribunal] constituted under the said Act against any order of the Collector on the following grounds only:

- (a) that the order of the Collector was contrary to law;
- (b) that the Collector failed to determine some material issue of law; or
- (c) that there was a substantial defect in following the procedure provided by this Act, which has resulted in the miscarriage of justice.

.....

16. From the aforesaid text of Section 76(1) of the Act, 1948, it becomes abundantly clear that the MRT is a Tribunal of limited jurisdiction. The grounds on which the MRT may entertain a challenge to, and if found necessary, interfere with, an order passed by the Collector have been specifically enumerated in Clauses (a) and (c) of Sub-Section (1) of Section 76 of the Act, 1948. The revisional jurisdiction of MRT is thus circumscribed by the express provisions of Sub-Section (1) of Section 76 of the Act, 1948.

17. The distinction between an appellate jurisdiction and a revisional jurisdiction is well marked. In an appellate jurisdiction, ordinarily the Appellate Court /Tribunal has power to review the evidence and re-appreciate the matter subject to statutory limitations. In contrast, in exercise of revisional

jurisdiction, the revisional authority has no power to review, reweigh and re-appreciate the evidence, unless there is a specific conferment of such power.

18. A profitable reference in this context can be made to the Constitution Bench judgment in the case of **Hindustan Petroleum Corporation Ltd Vs Dilbahar Singh**,¹ wherein while construing the revisional power of the High Court, under the State Rent Control legislations, the Supreme Court adverted to, and explained, the distinction between appellate and revisional jurisdiction. The relevant part of paragraph 28 reads as under:-

“28. Conceptually, revisional jurisdiction is a part of appellate jurisdiction but it is not vice versa. Both, appellate jurisdiction and revisional jurisdiction are creatures of statutes. No party to the proceeding has an inherent right of appeal or revision. An appeal is continuation of suit or original proceedings, as the case may be. The power of the appellate court is coextensive with that of the trial court. Ordinarily, appellate jurisdiction involves rehearing on facts and law but such jurisdiction may be limited by the statute itself that provides for the appellate jurisdiction. On the other hand, revisional jurisdiction, though, is a part of appellate jurisdiction but ordinarily it cannot be equated with that of a full-fledged appeal. In other words, revision is not continuation of suit or of original proceeding. When the aid of Revisional Court is invoked on the revisional side, it

1 (2014) 9 SCC 78.

can interfere within the permissible parameters provided in the statute. It goes without saying that if a revision is provided against an order passed by the Tribunal/appellate authority, the decision of the Revisional Court is the operative decision in law. In our view, as regards the extent of appellate or revisional jurisdiction, much would, however, depend on the language employed by the statute conferring appellate jurisdiction and revisional jurisdiction.”

(emphasis supplied)

19. In the backdrop of the aforesaid exposition of the legal position, reverting to the aspect of the extent of revisional jurisdiction of the MRT under Section 76 of the Act of 1948, it is imperative to note that the legislature has not even vested a general power of revision in the MRT. On the other hand, the revisional jurisdiction is restricted to correcting what can properly be termed as errors of law or substantial defect in procedure entailing a miscarriage of justice.

20. While construing the scope and extent of the revisional powers of the Tribunal under Section 76 of the Act, in the case of **Rahimatulla Rahiman Sarguru vs. Bapu Hari Mane and another**,² the Supreme Court has held that the powers of revision entrusted to Maharashtra Revenue Tribunal under

² 1979(4) SCC 391.

Section 76 of the Bombay Tenancy and Agricultural Lands Act, are practically identical with the second appellate power of the High Court under Section 100 of the Code of Civil Procedure, before it was amended by Act 104 of 1976.

21. The High Court while exercising its supervisory jurisdiction needs to keep in view the aforesaid jurisdictional limitations of the MRT and refrain from delving into the factual disputes. The High Court cannot reweigh and re-appreciate the evidence adduced before the authorities under the Act, 1948.

22. In the case of **Maruti Bala Raut Vs Dashrath Babu Wathare and Ors**,³ the Supreme Court enunciated that the High Court while exercising its powers under Article 227 of the Constitution of India was not entitled to discuss the evidence and come to its own conclusion on evidence as to who was in possession of the land. That was a matter for the revenue authorities and only within the scope of Article 227 of the Constitution of India, could the High Court interfere.

23. The contours of writ jurisdiction were illuminatingly postulated by a Constitution Bench of the Supreme Court in the

3 AIR 1974 SC 2051.

case of **Rajendra Diwan vs. Pradeep Kumar Ranibala and another**,⁴ as under:

“85. The power of superintendence conferred by Article 227 is, however, supervisory and not appellate. It is settled law that this power of judicial Superintendence must be exercised sparingly, to keep subordinate courts and tribunals within the limits of their authority. When a Tribunal has acted within its jurisdiction, the High Court does not interfere in exercise of its extraordinary writ jurisdiction unless there is grave miscarriage of justice or flagrant violation of law. Jurisdiction under Article 227 cannot be exercised “in the cloak of an appeal in disguise”.

86. In exercise of its extraordinary power of superintendence and/or judicial review under Articles 226 and 227 of the Constitution of India, the High Courts restrict interference to cases of patent error of law which go to the root of the decision; perversity; arbitrariness and/or unreasonableness; violation of principles of natural justice, lack of jurisdiction and usurpation of powers. The High Court does not re-assess or re-analyze the evidence and/or materials on record. Whether the High Court would exercise its writ jurisdiction to test a decision of the Rent Control Tribunal would depend on the facts and circumstances of the case. The writ jurisdiction of the High Court cannot be converted into an alternative appellate forum, just because there is no other provision of appeal in the eye of law.”

4 (2019) 20 SCC 143.

(emphasis supplied)

24. Keeping in view the aforesaid jurisdictional limitations of the MRT and this Court, the submissions canvassed on behalf of the parties deserve to be appreciated.

25. There is not much controversy between the parties over the certification of Mutation Entry No. 488 and Mutation Entry No.620. The material on record indicates that late Babu Ganpat's name was mutated to the Record of Rights of the subject lands as a protected tenant. The legal implications of the said mutation entries on the rights of the tenant, under the protective regime of the Tenancy Acts are at the heart of the controversy. Whether the developments that have taken place subsequent to the tiller's day including the certification of M.E. No.620 impinge upon the rights of the tenant is the moot question.

26. The Mutation Entry No. 488 clearly indicates that on 10th September, 1954, the said mutation entry was made, to the effect that late Babu Ganpat was cultivating the lands bearing Survey No. 145/4 and 145/7 held by late Balu Pandu Patil as a Manager of the Joint Hindu Family. Thus, the name of Babu

Ganpat was mutated in the Record of Rights as a protected tenant under the Bombay Tenancy Act, 1939. The said mutation entry was certified on 28th December, 1954. It implies that late Babu Ganpat did cultivate the subject lands as a protected tenant thereof and was, thus, entitled to the protection under the then prevailing legal regime.

27. The fulcrum of the Respondents case revolved around the certification of M.E. No. 620. Evidently, the said mutation entry was made on 30th January, 1960. It records that Babu Ganpat, the protected tenant, was cultivating the subject land. However, since 1955–1956, the landholder Balu Pandu Patil started to cultivate the subject lands personally. Thus, the name of late Babu Ganpat came to be deleted from the Record of Rights, and the name of the landholder Balu Pandu Patil came to be mutated as the cultivator thereof. The said mutation entry was certified on 24th September, 1960.

28. Incontrovertibly, M.E. No. 620 records in clear and unequivocal terms that Babu Ganpat was cultivating the subject land as a protected tenant thereof and since 1955–1956, the late Babu Ganpat ceased to cultivate the subject land. Interestingly, the said mutation entry was made on 30th

January, 1960; almost three years after the tiller's day. Could the rights of the protected tenant be defeated by effecting the mutation entry post tiller's day was thus the core question to be determined by the authorities under the Act, 1948.

29. At this stage, the provisions of the Act, 1948 as regards the "protected tenant" assume significance. Section 2(18) of the Act, 1948 defines a "tenant" as under:

"2(18) "tenant" means a person who holds land on lease and include,

- (a) a person who is deemed to be a tenant under section 4;
- (b) a person who is a protected tenant; and
- (c) a person who is a permanent tenant;

and the word "landlord" shall be construed accordingly."

30. Sub-section (14) of Section 2, in turn, defines "protected tenant" as under:

"2(14) "Protected tenant" means a person who is recognized to be a protected tenant under Section 4A;"

31. Section 4A reads as under:

"4A. Protected tenants.- For the purposes of this Act, a person shall be recognized to be a protected tenant, if such person has been deemed to be a protected tenant under sections 3, 3A and 4 of the Bombay Tenancy Act, 1939, referred to in Schedule I to this Act."

32. Section 89(1) provides that the enactment specified in Schedule-I was thereby repealed to the extent mentioned in the fourth column thereof. Schedule-I repealed the Bombay Tenancy Act, 1939, except Sections 3, 3A and 4 as modified in the manner enumerated in the fourth column. Sections 3, 3A, and 4 define who shall be deemed to be a 'protected tenant'. Section 3A, *inter alia*, provides that the tenants on expiry of one year from the coming into force of the Bom. XXVI of 1946 to be deemed protected tenants. It further provides that, every tenant shall, from the eighth day of November, 1947, be deemed to be a protected tenant for the purposes of that Act and his rights as such protected tenant shall be recorded in the Record of Rights, unless his landlord has prior to the aforesaid date made an application to the Mamlatdar for a declaration that the tenant is not a protected tenant.

33. The certification of Mutation Entry No. 488 is thus required to be construed in the light of the aforesaid provisions, which define a protected tenant. The entry in the Record of Rights as a protected tenant, therefore, cannot be construed as inconsequential or immaterial. Section 32, which envisages the deemed purchase of land by a tenant provides that, on the

tiller's day i.e. 1st April, 1957, every tenant shall, subject to the other provisions of that section and the provisions of the next succeeding sections, be deemed to have purchased from his landlord, free from all encumbrances subsisting thereon on the said day, the land held by him as tenant, if the conditions prescribed therein are satisfied.

34. Thus under Section 32, by operation of law, every tenant of the agricultural land governed by the Act, 1948 becomes the owner thereof. The law declares him to be a deemed purchaser on the tiller's day, without any act on his part. Conversely, the landlord is divested of the title to the agricultural land. The landlord's title passes to the tenant on the tiller's day, statutorily and instantaneously. Although, the title which passes to the tenant may be displaced if the purchase is declared ineffective on account of the subsequent default on the part of the tenant, yet, it is incontestable that if the tenant is cultivating the land on the tiller's day, the landlord's interest in such land gets extinguished as a result of the statutory sale.

35. A profitable reference in this context can be made to the Constitution Bench judgment of the Supreme Court in the case

of *Sri Ram Ram Narain Medhi vs. State of Bombay*⁵, wherein the law was expounded as under:

“41. The title of the landlord to the land passes immediately to the tenant on the tiller's day and there is a completed purchase or sale thereof as between the landlord and the tenant. The tenant is no doubt given a locus penitentiae and an option of declaring whether he is or is not willing to purchase the land held by him as a tenant. If he fails to appear or makes a statement that he is not willing to purchase the land, the Tribunal shall by an order in writing declare that such tenant is not willing to purchase the land and that the purchase is ineffective. It is only by such a declaration by the Tribunal that the purchase becomes ineffective. If no such declaration is made by the Tribunal the purchase would stand as statutorily effected on the tiller's day and will continue to be operative, the only obligation on the tenant then being the payment of price in the mode determined by the Tribunal. If the tenant commits default in the payment of such price either in lump or by installments as determined by the Tribunal, S. 32M declares the purchase to be ineffective but in that event the land shall then be at the disposal of the Collector to be disposed of by him in the manner provided therein. Here also the purchase continues to be effective as from the tiller's day until such default is committed and there is no question of a conditional purchase or sale taking place between the landlord and tenant. The title to the land which was vested originally in the landlord passes to the tenant on the tiller's day or the alternative period prescribed in that behalf. This title is defeasible only in the event of the tenant failing to appear or making a statement that he is not willing to purchase the land or committing default in payment of the price thereof as determined by the

5 AIR 1959 Supreme Court 459.

Tribunal. The tenant gets a vested interest in the land defeasible only in either of those cases and it cannot therefore be said that the title of landlord to the land is suspended for any period definite or indefinite. If that is so, there is an extinguishment or in any event a modification of the landlord's right in the estate well within the meaning of those words as used in Art. 31A(1)(a)."

(emphasis supplied)

36. Following the aforesaid pronouncement in the case of *Amrit Bhikaji Kale and others vs. Kashinath Janardhan Trade and another*⁶, the Supreme Court enunciated the law as under:

"6. The Tenancy Act was comprehensively amended by Amending Act 15 of 1957. The amendment brought in a revolutionary measure of agrarian reforms making tiller of the soil the owner of the land. This was done to achieve the object of removing all intermediaries between tillers of the soil and the State. Sec. 32 provides that by mere operation of law, every tenant of agricultural land situated in the area to which the Act applies shall become by the operation of law, the owner thereof. He is declared to be a deemed purchaser without anything more on his part. A Constitution Bench of this Court in Sri Ram Narain Medhi v. The State of Bombay (1959 Supp 1 SCR 489) held that:

[extracted above]

Therefore, it is unquestionably established that on the tillers' day, the landlord's interest in the land gets extinguished and simultaneously by a statutory sale without anything more by the parties, the extinguished title of the landlord is kindled or created in the tenant. That very moment landlord-tenant

6 (1983) 3 Supreme Court Cases 437.

relationship as understood in common law or Transfer of Property Act comes to an end. The link and chain is broken. The absent non-cultivating landlord ceases to have that ownership element of the land and the cultivating tenant, the tiller of the soil becomes the owner thereof This is unquestionable. The landlord from the date of statutory sale is only entitled to receive the purchase price as determined by the Tribunal u/s 32-G. In other words, the landlord ceases to be landlord and the tenant becomes the owner of the land and comes in direct contact with the State. Without any act of transfer inter vivos the title of the landlord is extinguished and is created simultaneously in the tenant making the tenant the deemed purchaser.”

(emphasis supplied)

37. The MRT was thus required to pose unto itself the question as to whether late Babu Ganpat, who was unquestionably a protected tenant, became the deemed purchaser of the subject land on the tiller’s day? Whether the mutation entry certified in the year 1960 to the effect that the protected tenant ceased to be the tenant since the year 1955–1956 was sufficient to defeat the right of the protected tenant?

38. Instead of determining aforesaid pertinent questions, the MRT proceeded to delve into the thicket of facts in regard to the discrepancy in the death certificate of Babu Ganpat, the absence of material to show that the petitioner was the daughter of late Babu Ganpat, and also to show that the

petitioner personally cultivated the subject lands. These questions, in the facts of the case, would assume subsidiary character if it is found that the rights of the protected tenants could not be defeated by certification of a mutation entry after almost three years of the tiller's day. If Babu Ganpat was found to be in the cultivation of the subject lands on the tiller's day, the entire complexion of the dispute materially changes.

39. Since the MRT has not examined this crucial aspect of the matter, this Court considers it appropriate to remit the matter back to the MRT for a fresh decision on the question, whether the protected tenancy of late Babu Ganpat could be defeated by certification of the Mutation Entry deleting the name of the protected tenant from the Record of Rights of the subject lands after three years of the tiller's day.

40. Hence, the following order :-

:: O R D E R ::

- (i)** The Petition stands partly allowed.
- (ii)** .The impugned order passed by the MRT in Revision Application No. TNC/REV/THN/223/2022 stands quashed and set aside.
- (iii)** The Revision Application stands remitted back and restored to the file of MRT for afresh hearing and

disposal in accordance with law after providing an opportunity of hearing to the parties, as expeditiously as possible and, preferably, within a period of six months from the date fixed for the appearance of the parties before the MRT.

(iv) The parties shall appear before the MRT on 7th September 2026. No fresh notice need be issued to the parties for appearance before the MRT.

(v) Rule made absolute in the aforesaid terms.

(vi) No costs.

[N. J. JAMADAR, J.]