

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1812 OF 1993

Laxman Sakharam Bhosale,  
deceased, by legal heirs  
Smt. Rajutai Laxman Bhosale & Ors. .. Petitioners  
vs.  
Shivaji Vithoji Khorate,  
since deceased by heirs  
Bajirao Shivaji Khorate & Ors. .. Respondents

Ms A. S. Mudbidri for Petitioners.  
Mr. S. M. Kamble for Respondent Nos. 1 to 3.

**CORAM : M. S. SONAK, J.**

Date of Reserving the Judgment : 26 February 2015

Date of Pronouncing the Judgment : 04 March 2015

**JUDGMENT :-**

1] This petition is directed against the judgment and order dated 17 August 1992 made by the Maharashtra Revenue Tribunal ("MRT") Kolhapur, in Tenancy Revision Application No. 58 of 1990 instituted by the Respondents.

2] The MRT, by the impugned judgment and order, has set aside the Sub Divisional Officer's (SDO) order dated 22 May 1989, and thereby restored the Tenancy Aval Karkun's order dated 20 April 1987 in Tenancy Case No. 39 of 1980.

3] This petition was taken up for consideration along with writ petition no. 2133 of 1993 as there is no substantial difference in the material facts and circumstances of the two cases.

4] One of the additional grounds, in the present petition was that the respondents herein had not been impleaded as parties by the SDO in Tenancy Appeal No. 32 of 1987. The MRT has held that the respondents herein were necessary parties and upon such additional ground, set aside the SDO's order dated 22 May 1989.

5] For the reasons set out in the judgment and order passed in writ petition no. 2133 of 1993, the judgments and orders made by the Tenancy Aval Karkun, the SDO and the MRT are all set aside and Tenancy Case No. 39 of 1980 is remanded to the Tenancy Aval Karkun, Radhanagari, for fresh decision, in accordance with law. The legal heirs of Shivaji Vithoji Khorate, who were the applicants in Tenancy Revision Application No. 58 of 1990 before the MRT, are directed to be impleaded as the respondents in Tenancy Case No. 39 of 1980. In case, such parties choose to, they are at liberty to apply for transposition as applicants in Tenancy Case No. 39 of 1980. Such application to be considered upon its own merits.

6] Parties to appear before the concerned Authority on 30 March 2015 at 11.00 a.m. in order to obtain directions for the disposal of the Tenancy Case No. 39 of 1980, hereby remanded.

7] The Tenancy Aval Karkun to dispose of Tenancy Case No. 39 of 1980 in accordance with the directions as aforesaid, as also the

directions contained in judgment and order made in writ petition no. 2133 of 1998 .

8] All parties to act on basis of authenticated copy of this order.

9] Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

**(M. S. SONAK, J.)**

Chandka