IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11110 OF 2014

1]	**Shri Dadu Sambhaji Sul**	**]**
	Age 65 yrs, Occ : Agriculture	**]**
		]
2]	**Shri Tukaram Sambhaji Sul**	**]**
	Age 60 yrs, Occ : Agriculture	**]**
		]
3]	**Shri Bhimrao Sambhaji Sul**	**]**
	Age 55 yrs, Occ : Agriculture	**]**
		]
	All residing at Jalbhavi	**]**
	Tal. Malshiras Dist. Solapur	**]..... Petitioners**

versus

1]	**Shri Nandkumar Vasant Deshpande**	**]**
	Age Adult, Occ : Agriculture,	**]**
		]
2]	**Shri Jayant Vsant Deshpande**	**]**
	Age Adult, Occ : Agriculture,	**]**
		]
3]	**Miss Premal Vasant Deshpande**	**]**
	Age Adult, Occ : Agriculture,	**]**
		]
4]	**Sou. Usha Gajanan Saygaonkar**	**]**
	Age Adult, Occ : Agriculture,	**]**
		]
	All residents of Natepute	**]**
	Tal. Malshiras, Dist. Solapur	**]..... Respondents.**

Mr. V S Talkute for the Petitioners.
Mr. D S Patil for the Respondents.

CORAM : R. M. SAVANT, J.
DATE : 2nd July 2015

ORAL JUDGMENT :

1 Rule with the consent of the learned counsel for the parties made returnable forthwith and heard.

2 The writ jurisdiction of this Court is invoked against the order dated 6/8/2014 passed by the learned Member of the Maharashtra Revenue Tribunal, Pune by which order the Revision Application filed by the Respondents herein came to be allowed and resultantly the judgment and order dated 19/5/2007 passed by the Sub-Divisional Officer, Pandharpur came to be quashed and set aside and the application filed by the Respondents under Section 84 of the Tenancy Act came to be allowed.

3 The principal ground on which the order dated 6/8/2014 is challenged is that the said order has been passed without hearing the Petitioners and therefore there is a breach of the principles of natural justice. It is sought to be contended on behalf of the Petitioners that the Revision Application was adjourned from time to time on which dates, the Petitioners were represented. The Revision Application had appeared on 12/5/2014 before the Tribunal on which date, the Petitioners were unrepresented and the said Revision Application was adjourned to 1/8/2014. On 1/8/2014, the Petitioners were labouring under an impression that since the R & P was called for the matter would not be proceeded with,and therefore did not remain present on the said day i.e. 1/8/2014. It is on the said day that the advocate for the Respondents filed written arguments and the matter was kept for orders. The impugned order dated 6/8/2014 thereafter came to be passed. It is

only on receipt of the impugned order that the Petitioners realized that the hearing had taken place on 1/8/2014 on which day they had not remained present. The Petitioners claim to be purchasers from the original tenants who had an order of re-grant dated 6/9/1958 in their favour from the Mamlatdar. It is the case of the Petitioners that though the Petitioners had purchased the property in the year 1978, the Respondents had not joined them as parties to the application filed in the year 1985, for re-grant. In the said application it was the case of the Respondents that though they had paid the Nazrana amount the re-grant was made in favour of the tenants. The Collector by his order dated 2/7/1985 allowed the application and set aside the order of re-grant dated 6/9/1958 and made the re-grant in favour of the Respondents. The said order of re-grant has been taken into consideration by the Maharashtra Revenue Tribunal as also the order of deleting the names of the Petitioners from the revenue record and incorporating the names of the Respondents in the year 2006.

4 In my view, having regard to the aforesaid facts, there was necessity to grant hearing to the Petitioners so that there could have been a fair contest. The instant case is not a case where there has been persistent default in appearance on behalf of the Petitioners in the proceedings. It may be that on two dates the Petitioners did not remain present out of which for one date the explanation was given by the Petitioner can be said to be the plausible

explanation viz. since the R & P was called for on the earlier date, they did not remain present on the subsequent date in the belief that once R & P is received the matter would not be proceeded with unless the parties are given opportunity to see the R & P. It is well settled that a party should be given an opportunity to prosecute the proceedings on merits rather than being thrown out on technicalities. If the Tribunal was of the view that there was no explanation from the Petitioners as regards their absence on two dates, the Tribunal should have put the Petitioners to terms, but could not have proceeded to decide the matter ex-parte i.e. without hearing the Petitioners. In my view, therefore the impugned order dated 6/8/2014 is required to be quashed and set aside and is accordingly quashed and set aside and the matter is relegated back to the Maharashtra Revenue Tribunal for a de-novo consideration of the Revision Application. On remand the parties to appear before the Maharashtra Revenue Tribunal on 27/07/2015. The Tribunal thereafter to dispose of the Revision Application expeditiously but not later than three months i.e. on or before 31/10/2015. All the contentions of the parties are kept open for being urged before the Tribunal. The above Petition is allowed to the aforesaid extent. Rule is accordingly made absolute with parties to bear their respective costs.

[R.M.SAVANT, J]