

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2556 OF 2015**

**Mohamadmiya Mohd. Amin Moulvi(deceased)
through Lrs & Ors.**

..Petitioners

Vs.

M/s. Lambodhar Estates Builders & Developers & Ors.

..Respondents

Mr. Niyaz Ahmed for the Petitioners

Mr. Sandesh Patil for the Respondent No.1

Ms Megha Keluskar for the Respondent Nos.2A, 2B, 2D to 2 I and 4A to 4D

CORAM : R. M. SAVANT, J.

DATE : 30th APRIL, 2015

P.C.

1 The Order dated 2-12-2014 passed by the Learned Member (Judicial) of the Maharashtra Revenue Tribunal (MRT) allowing the application for impleadment filed by the Respondent No.1 in Revision Application No.1026/B/2003, is taken exception to by way of the above Petition. The said Revision Application has been filed by the Petitioners against the order passed under Section 32G of the Bombay Tenancy and Agricultural Lands Act, 1948, by the Agricultural Land Tribunal dated 1-12-2000. It seems that the matter was carried to the Sub Divisional Officer (SDO) and thereafter to this Court. This Court had by setting aside the order passed by the MRT had remanded the matter back to the MRT for deciding the same in accordance

with law. The MRT accordingly took up the matter on remand for consideration. The Respondent No.1 filed an application for its impleadment on the ground that it has acquired rights in the land in question. It is the case of the Petitioners that after obtaining the permission under Section 43 of the Tenancy Act, the tenants had sold the land to the Respondent No.1 and that the Respondent No.1 is in the process of redeveloping the said land. The MRT having regard to the documents which were placed on record amongst which are the 32M certificate issued to the tenants on 5-7-2003 and the permission obtained under Section 43 which is dated 18-6-2004 pursuant to which the tenants had entered into a Development Agreement with the Respondent No.1, had deemed it fit to allow the impleadment of the Respondent No.1 in the said proceedings as according to the Learned Member, the Respondent No.1 had acquired rights in the said property.

2 The Learned Counsel appearing for the Petitioners would contend that since the Revision Application arises out of the order passed under Section 32G of the said Act, the Respondent No.1 has nothing to do with the said proceedings. The Learned Counsel in so far as the impleadment of the Respondent No.1 is concerned, sought to place reliance on an order passed by a Learned Single Judge of this court in Writ Petition No.6520 of 2010 to contend that the presence of the Respondent No.1 is not necessary.

3 In so far as the contentions of the Learned Counsel for the Petitioners is concerned, it is required to be noted that the 32G order has been passed as long back as on 1-12-2000. Thereafter the SDO had dismissed the Appeal filed by the Petitioners and the matter was carried to the MRT by way of a Revision which order of the MRT was set aside and the matter came to be remanded back to the MRT by this Court. It seems that in the interregnum, the 32M certificate came to be issued to the tenants on 5-7-2003, which certificate evidences the fact that the tenants are the deemed purchasers under Section 32G. The said certificate has been succeeded by the order obtained by the tenants under Section 43 of the said Act, seeking permission to sell the property which order is dated 18-6-2004, pursuant to which the tenants have entered into an agreement with the Respondent No.1. Hence the aforesaid events that is the grant of certificate under Section 32M and the permission to sell, have overtaken the order passed under Section 32G and the said facts assume relevance in the context of whether the Respondent No.1 is required to be impleaded in the proceeding.

4 In my view, what has been permitted is the impleadment of the Respondent No.1 in the said Revision Application. It would be for the MRT to consider the case of the Respondent No.1 in the Revision Application. However, the order passed by the Learned Member of the MRT does not suffer from any error of jurisdiction or any other illegality or infirmity for this Court to interfere

in its Writ Jurisdiction. The Writ Petition is accordingly dismissed.

5 Needless to state that all the contentions of the parties are kept open for being urged before the MRT who would decide the said Revision Application on its own merits and in accordance with law.

[R.M.SAVANT, J]