

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2033 OF 2016

Kiran D. Kelkar & ors. .. Petitioners
vs.
The State of Maharashtra and ors. .. Respondents

Mr. Sachin Tigade for the Petitioners.
Mr. A.R. Metkari, AGP for Respondent Nos.1 and 2.

CORAM : M. S. SONAK, J.
DATE : 16 FEBRUARY 2016.

P.C. :-

- 1] Not on board. Upon production, taken on board.
- 2] There is no reason to entertain the present petition. All that the Petitioners seek that the issue of maintainability raised by them, in their application dated 27 August 2015 should be decided as a preliminary issue. Considering that the proceedings under Section 17B of the Bombay Tenancy and Agricultural Lands Act, 1948 have reached at the stage of trial, it will not be appropriate to treat such issue as a preliminary issue. However, the Tahsildar is directed to consider and decide the issue raised by the Petitioners in their application dated 27 August 2015 alongwith all other issues which arise in the proceedings.
- 3] It is made clear that the Tahsildar shall be at liberty to also decide as to whether such issue indeed arises in the proceedings or not. Accordingly, all contentions of all parties are kept open.
- 4] The petition is disposed of in the aforesaid terms.
- 5] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)