

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 7677 OF 2015**

**Shashikant Vishnu Deshpande & Ors.**

**..Petitioners**

**Vs.**

**The State of Maharashtra & Ors.**

**..Respondents**

**Mr. P. S. Dani Senior Advocate i/b Mr. A. P. Pande for the for the Petitioners  
Mr. R. D. Soni with Mr. V. A. Kasle i/b Ram & Co. for the Respondent  
No.13**

**Mrs. Vaishali Nimbalkar AGP for the Respondent Nos.1 & 2**

**Mr. A. Y. Sakhare Senior Advocate a/w Mr. Joel Carlos for the Respondent  
No.4**

**CORAM : R. M. SAVANT, J.**

**DATE : 18<sup>th</sup> MARCH, 2016**

**P.C.**

1           The Writ Jurisdiction of this Court is invoked against the order dated 17-4-2015 passed by the Learned Member (Judicial) Maharashtra Revenue Tribunal (Maharashtra Revenue Tribunal), by which order, the application for condonation of delay in filing the Revision Application filed by the Petitioners came to be rejected. The said Revision Application was directed against the order dated 18-9-1991 passed by the Sub Divisional Officer (SDO) Haveli, in Tenancy Appeal No.90 of 1991.

2           The genesis of the present proceedings lie in the 32G order passed in favour of one Anna Eknath Chaudhari on 31-11-1990 under the Bombay Tenancy and Agricultural Lands Act 1948 (for short the said Act). Thereafter

32M certificate came to be issued in favour of the said Anna Chaudhari on 18-10-1991. The Petitioners claim to be the co-owners of the land in respect of which the 32G order and the 32M certificate came to be issued in favour of the said Anna Chaudhari. After the said 32M certificate came to be issued in favour of the said Anna Chaudhari, the landlord i.e. Madhukar Venkatesh Deshpande and others, filed Tenancy Appeal No.90 of 1991 challenging the said order passed under Section 32G of the said Act. The said Appeal came to be withdrawn by the Appellants on 18-9-1991 after the permission was granted by the SDO for withdrawal of the same. The matter lay dormant till the year 2012 in which year the Petitioners filed Regular Civil Suit No.299 of 2012 seeking partition of the said property. It is the case of the Petitioners that just prior to the filing of the said Regular Civil Suit that they acquired knowledge of the Tenancy Appeal No.90 of 1991 being withdrawn by the other co-owners who were the Appellants in the said Appeal. The Petitioners attributed the said withdrawal to the collusion between the said co-owners and the persons who were declared as tenants. The Petitioners therefore proposed to file a Revision before the Maharashtra Revenue Tribunal and since there was a huge delay on account of the fact that the withdrawal of the Appeal was on 18-1-1991 and the Petitioners were seeking to file the Revision in the year 2013, the Petitioners have filed the application for condonation of delay.

3           The principal ground on which the condonation of delay was

sought by the Petitioners was on the ground that the Petitioners acquired knowledge of the withdrawal of the Tenancy Appeal No.90 of 1991 filed by another set of co-owners only just prior to the filing of the Regular Civil Suit NO.299 of 2012 by them. It seems that the Maharashtra Revenue Tribunal had passed an order of status-quo whilst considering the said application for condonation of delay, the Respondent No.13 it seems had filed an application for vacating the order of status-quo in which application antecedent facts which had occurred prior to the filing of the application for condonation of delay were stated. The MRT considered the said application and has rejected the same by the impugned order.

4           The gist of the reasoning of the MRT was that the Petitioners claim that their family is a joint family and since the land was an ancestral property, the knowledge of the 32G order and 32M certificate being issued in favour of the said Anna Chaudhari would have to be attributed to the Petitioners. The MRT was of the view that the Petitioners' case that they became aware of the withdrawal of the Tenancy Appeal No.90 of 1991 vide the said order dated 18-1-1991, only just prior to the filing of the Regular Civil Suit No.299 of 2012, could not be accepted. The MRT adverted to the fact that the 32M certificate has to be published in accordance with the provisions of the said Act and the Rules and therefore the knowledge of the said certificate would have to be attributed to the Petitioners. The MRT adverted to the judgment of the

Apex Court wherein the Apex Court has held as to what would constitute sufficient cause. The MRT observed in the facts and circumstances of the case it could not be said that the Petitioners have made out a case for condonation of delay by showing sufficient cause for the said huge delay which has occurred between the years 1991 and 2013. The MRT has accordingly rejected the application for condonation of delay by the impugned order dated 17-4-2015.

5           In the above Petition, an affidavit in reply has been filed on behalf of the Respondent No.13. In the said reply, it has been averred that the Petitioners had also filed a Revision under Section 257 of the Maharashtra Land Revenue Code which Revision Application they have withdrawn and which fact has been kept away from this Court in the above Petition. It has further been stated that after the 32M certificate was issued way back in the year 1991, the property was transferred from the original owners to the tenants pursuant to the said 32M certificate and the tenants have further transferred the properties to the third parties after obtaining permission under Section 43 of the said Act. It is stated that the present owners i.e. Respondent No.13 are the third or fourth purchasers, subsequent to the grant of certificate under Section 32M. It is further stated that transfers are made upon payment of valuable consideration by registered documents. Hence the Petitioners case that they were not aware of the order of withdrawal or what has transpired on the site in question till the year 2013, cannot be accepted. It seems that large

number of building are already been constructed on the land in question. The occupation certificate in respect of one such building is annexed to the affidavit in reply at page 101.

6           In my view, having regard to the aforesaid facts as also having regard to the fact that the reason given by the Petitioners namely that they became aware of the withdrawal of the Tenancy Appeal No.90 of 1991 only in the year 2013 does not inspire confidence. No discretion could be exercised in favour of the Petitioners. The order passed by the MRT therefore cannot be found fault with. No case for interference in the Writ Jurisdiction of this court is made out. The Writ Petition is accordingly dismissed.

**[R.M.SAVANT, J]**