

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 3717 OF 1999

Bajirao Kundalika Tarade  
Since deceased by his Heirs  
Shri. Namdeo Bajirao Tarade  
1. Late Namdeo Bajirao Tarade,  
since deceased, through his Lrs.  
(Amendment carried out as per  
court's order dated 22/02/20 in  
C.A.No.130/10  
1a). Shri. Satyawar Namdeo Tarade,  
Age : 42 years, Occ : Service  
  
1b). Smt. Laxmi Namdeo Tarade,  
Age : 65 years, Occ. Agriculture  
  
1c). Shri Ashok Namdeo Tarade,  
Age : 35 years, Occ. Agriculture  
All r/o. Banoli, Tarf Kudal,  
Tal. Jaoli, District- Satara  
  
1d). Shri. Rekha Mohan Pol  
Age : 38 years, Occ. Agriculture  
r/o. A/P Kavata, Tal. Wai  
District- Satara

.....Petitioners

V/s.

Pandu Dhondi Tarade,  
Since deceased through his  
Heirs & L.R.s  
Shri. Nivrutti Pandu Tarade,  
R/o. Bamnoli Tarf-Kudal,  
Tal. Jaoli, District – Satara

.....Respondent  
(Orig. Landlord)

ALONGWITH  
WRIT PETITION NO. 3719 OF 1999

Bajirao Kundalika Tarade

Since deceased by his Heirs

Shri. Namdeo Bajirao Tarade

1. Late Namdeo Bajirao Tarade,  
since deceased, through his Lrs.  
(Amendment carried out as per  
court's order dated 22/02/20 in  
C.A. No.131/10)

1a). Shri. Satyawar Namdeo Tarade,  
Age : 42 years, Occ : Service

1b). Smt. Laxmi Namdeo Tarade,  
Age : 65 years, Occ. Agriculture

1c). Shri Ashok Namdeo Tarade,  
Age : 35 years, Occ. Agriculture  
All r/o. BaMnoli, Tarf Kudal,  
Tal. Jaoli, District- Satara

1d). Shri. Rekha Mohan Pol  
Age : 38 years, Occ. Agriculture  
r/o. A/P Kavata, Tal. Wai  
District- Satara

.....Petitioners

V/s.

Pandu Dhondi Tarade,  
Since deceased through his  
Heirs & L.R.s  
Shri. Nivrutti Pandu Tarade,  
R/o. Bamnoli Tarf-Kudal,  
Tal. Jaoli, District – Satara

.....Respondent  
(Orig. Landlord)

Mr. Rahul S. Kate, Advocate for the petitioners.

None for the respondents.

**CORAM :- SMT. R.P. SONDURBALDOTA, J.**

**DATED :- 24TH JUNE, 2016.**

**JUDGMENT :-**

1). The above two petitions arise out of order dated 12<sup>th</sup> March, 1990 by which the Maharashtra Land Revenue Tribunal allowed the Revision Application preferred by the respondents and confirmed the order of A.L.T. Joali in tenancy proceedings being No. MRT-NS-VI-11-90 (12/90) (B-169/90) Pune dtd. 16<sup>th</sup> March, 1999 and No. MRT-NS-VI-12-90 (11/90) (B-168/90) Pune dtd. 16<sup>th</sup> March, 1999.

2). The brief factual background of the two petitions is that, the respondents are the owners of the land bearing Survey No.144/1, 48/6, 48/11 and 48/17. One Bajirao Kundlika Tarade, the predecessor of the petitioners was the tenant in respect of the lands. The proceedings under Section 32G of the Bombay Tenancy and Agricultural Lands Act, ("the Bombay Tenancy Act" for short). Tenancy Case No. 23 of 1962 were initiated before A.L.T. (Jaoli) for purchase of the land by Bajirao. He, however, stated on oath on 15<sup>th</sup> September, 1962 that he was not willing to purchase the land in dispute. Consequently, by the order passed on the same day, the purchase was declared ineffective. Immediately thereafter, the proceedings under Section 32P were initiated and the order thereon was passed. Bajirao died in the year 1981. Eight years thereafter,

the petitioner filed Tenancy Appeal No.20 of 1989 and 27 of 1989 before the Sub-Divisional Officer, Satara. Both the appeals being filed after 27 years of passing of the order, were obviously beyond the period of limitation. In Tenancy Appeal No.27 of 1989 the petitioner claimed that the decision of A.L.T., Jaoli dated 15<sup>th</sup> September, 1962 has so far not been communicated to him. On getting oral information about the order, he applied for certified copy on 10<sup>th</sup> April, 1989. He received the certified copy on 4<sup>th</sup> May, 1989 and filed the appeal on 18<sup>th</sup> May, 1989. In Tenancy Appeal No. 26 of 1989 he claimed that, he got oral information from the Talathi of the Village that he is likely to be evicted from the property in question. Therefore, he rushed to the Talathi office and applied for certified copy on 10<sup>th</sup> April, 1989. He received the copies on 4<sup>th</sup> May, 1989 and filed appeal on 18<sup>th</sup> May, 1989. As regards the merits, it was contended in both the appeals that, there was no intimation given of the proceedings under Section 32G and 32P to the tenant and it was necessary for A.L.T. (Jaoli) to have properly communicated to Bajirao the consequences of refusal to purchase the property. The Sub-Divisional Officer, by his judgment dated 12<sup>th</sup> March, 1990 held that the decision passed under Section 32G of the Tenancy Act was not communicated to the tenant. Therefore, the proceedings under Section 32P was not maintainable. The two orders passed on the same day were further not sustainable. It was further held by the Sub-Divisional Officer that the A.L.T. Jaoli ought to have been given complete opportunity to Bajirao to think about the consequences of the denial to purchase the suit land. The

Sub-Divisional Officer, further held that since the intimation of the decision dated 15<sup>th</sup> September, 1962 was not given to the appellants, their appeals filed in the year 1989 were within the period of limitation. On merits, he observes that, A.L.T., Jaoli should have been given full opportunity to the tenant to think over the consequences of his denial to purchase the suit land. The Revenue Tribunal, by common judgment and order, allowed the Revision Applications preferred by the respondent holding that the manner in which the Sub-Divisional Officer had considered the question of limitation was not proper and that both the appeals were clearly time-barred. As regards the merits, he held that there was nothing on record to indicate that Bajirao was not made aware of the consequences of his failure to purchase the land. He noted that, infact A.L.T., Jaoli had recorded the statement of the tenant on oath and that was sufficient. There was nothing more to be done by A.L.T., Jaoli.

3). Mr. Kate, the learned Advocate appearing for the petitioner, submits that, there are several circumstances noticeable from the record that can indicate that there was some mischief played as regards the order passed by A.L.T.(Jaoli). He also points out that, even after obtaining the orders under Section 32P, the respondent had not taken any steps for taking possession of the properties from the petitioner. The suspicious circumstances from the record, according to Mr. Kate, are (i) the orders under Section 32G and 32P were passed on the same day, (ii) there was no verification of the proceedings, and (iii) the thumb impression of

Bajirao obtained as acknowledgement of receipt of notice was identified by the landlord himself. As regards the limitation, he states that the petitioners were not aware of the proceedings at all. They learnt about the proceedings only when the landlord sold a portion of the property to a third party.

4). There was no question of the authorities serving any notice upon the petitioners either before the order under Section 32G of the Bombay Tenancy Act or after passing the order under Section 32G because at the relevant time, the appellants were not concerned with the property. The tenant was their father, Bajirao. The reverse of the notice indicated thumb impression of Bajirao that was identified by the owner. However, that by itself cannot be a suspicious circumstance. Particularly, when the statement of Bajirao refusing to purchase the land was made on oath. As regards the complaint of passing both the orders on the same day, since proceedings under Section 32G were disposed off by the concerned authorities by recording refusal by Bajirao to pay the purchase price, there was nothing wrong in passing the order on the same day. There was no need whatsoever to postpone the hearing of the proceedings under Section 32P of the Tenancy Act. Thus, there are absolutely no suspicious circumstances as regards the orders passed by the A.L.T. (Jaoli). Hence, there is no infirmity whatsoever in the impugned orders. The petitions are therefore dismissed.

(SMT. R.P. SONDURBALDOTA, J)