

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.5656 OF 1998  
ALONGWITH  
CIVIL APPLICATION NO.1303 OF 2016**

Shri. Machindra Raghunath Gaikwad .... Petitioner

Vs.

Shri. Kamalakant Gopalrao Sulakhe .... Respondents

Mr. T.D. Deshmukh, Advocate for the Petitioner.

Mr. P.B. Shah, Advocate for Respondents no. 1A and 1B.

Mr. S.G. Karandikar, Advocate for Respondent no.1(D)(I) and 1(D)(II).

Coram : **Smt. R.P. SondurBaldota, J.**

Date : 14<sup>th</sup> July, 2016

P.C.

1           The petitioner claims that on the Tiller's Day i.e. on 1<sup>st</sup> April, 1957, he was the tenant in respect of the land in question and as such became the owners of the property and entitled to purchase it under Section 32(G) of the Bombay Tenancy and Agricultural Lands Act ("Tenancy Act"). His application for fixing up the purchase price under Section 32(G) of the Tenancy Act was allowed by the Tahsildar by the order dtd. 19<sup>th</sup> April, 1994 and certificate under Section 32(M) granted to them. The owner of the property had preferred appeal to the Sub Divisional Officer, which

was dismissed on 21<sup>st</sup> December, 1995. Thereafter, the owner approached Maharashtra Revenue Tribunal, Pune by way of revision. By the order dtd. 31<sup>st</sup> March, 1998, application was allowed and the orders of Tahsildar and Sub Divisional Officer are set aside. Thereafter the petitioners filed present petition to challenge the order of the Tribunal.

2           The respondent-landlord had preferred Civil Application No.1149 of 2012 seeking an interim injunction to restrain the petitioners from creating any third party rights over the suit property and also from changing the nature of the suit property. On 18<sup>th</sup> June, 2012, when that Civil Application was taken up for hearing, Mr. Deshmukh, the learned advocate for the petitioner, on instructions from the son of petitioner no.1, who was present in the court made a statement that respondent no.1, without obtaining leave to this court, will neither create any third party interest in any manner whatsoever nor change the nature of the suit property, pending the hearing of the petition. The statement was accepted by the court and the Civil Application was disposed off. Mr. Shah, the learned advocate for respondents no. 1A and 1B points out that thereafter the petitioner has by the registered sale deeds dtd. 7<sup>th</sup> November, 2014, 3<sup>rd</sup> December, 2014, 11<sup>th</sup> December, 2014 and 24<sup>th</sup> February, 2014 transferred the property in question for consideration to third person. The respondents have therefore filed proceedings for contempt against the petitioners. In view of the transfer of the rights in the property

in question, to the third party, the petition filed by the petitioners is not maintainable any longer as the petitioner has no right, title or interest in the suit property. The petition is therefore liable to be dismissed. The respondent therefore filed Civil Application No.1303 of 2016 for dismissal of the petition. The Civil Application is allowed and the petition is dismissed.

(Smt. R.P. SondurBaldota, J)