

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

**WRIT PETITION NO. 1744 OF 1998**

Shri. Gangaram Gundappa Mali (Deceased)  
Through LRs. Baburao Gangaram Mali & ors. ...Petitioners

**vs.**

Shri. Shamrao Dadoba Bhosale (Deceased)  
Through LRs. Suhasini Shamrao Bhosale & ors. ...Respondents

Mr. N. J. Patil, Advocate for the petitioner.  
Mr. A. P. Kulkarni a/w Mr. Manoj Badgujar, Advocate for  
respondents no.1 and 2.

**Coram** : Smt. R. P. SondurBaldota, J.  
**Date** : 16<sup>th</sup> June, 2016

**P.C. :**

1. This petition challenges the order dated 29<sup>th</sup> September, 1997 by which the Maharashtra Revenue Tribunal allowed the revision application made by the respondent.

2. The father of the petitioner was an agricultural tenant in respect of the land in question. An enquiry under Section 32G under Bombay Tenancy and Agricultural Lands Act, 1948 ('The Tenancy Act', for short) was initiated at his instance and the Deputy Collector and A.L.T., Hatkanagle by the order dated 6<sup>th</sup> October, 1960 declared the purchase of the land in question ineffective as the tenant had showed his unwillingness to purchase the land in

question. As a consequence to that decision the proceedings under Section 32P of the Tenancy Act were started and later allowed on 10<sup>th</sup> December, 1963. But thereafter the landlord failed to take any steps for securing possession and the tenant continued in possession until 12<sup>th</sup> July, 1995 when the order of 10<sup>th</sup> December, 1963 was put to execution. The petitioner by preferring appeal being Tenancy Appeal No.14 of 1995 and 15 of 1995 to the Court of Sub-divisional Officer, Ichalkaranji challenged the orders dated 6<sup>th</sup> October, 1960 and 10<sup>th</sup> December, 1963 under Section 32E and 32P of the Tenancy Act. Though there was delay of 35 years in filing the appeal, the petitioner had not made any application for condonation of delay. The Appellate Court allowed the appeals by its order dated 26<sup>th</sup> April, 1996. Being aggrieved by that order, the respondent preferred the revision application before the Maharashtra Revenue Tribunal.

3. By the impugned order, the Revenue Tribunal found that the appellate authority had allowed the appeal without considering the fact of the extensive delay in filing the same and without condoning the same. Thereafter the Tribunal proceeded to consider the revision application on its merits. It held that once the tenant refused to purchase the land, his interest in the land ceased. The Appellate Court had misconstrued the case by presuming that it was under Section 15 of the Tenancy Act.

4. Mr. Patil, the learned advocate for the petitioner submits that the Tribunal after finding that there was non-application of mind by the appellate authority on the question of limitation, ought to have remanded the matter to the appellate Court for deciding the

question of limitation. I find no substance in the submission. Since there was not even an application made by the petitioner for condonation of delay, there was no question of remand by the Tribunal for considering any application for condonation of delay. The observation of the Tribunal that the appeal of the petitioner was barred by limitation and the delay in filing appeal was unexplained is an inference drawn on the basis of the undisputed facts from the record. The same is completely justified. Mr. Patil next submits that having held that the appeal was barred by limitation the Tribunal ought not to have thereafter considered the revision application on its merits. The submission need to be only stated to be rejected. Mr. Patil has not pointed out any provision that prevents Maharashtra Revenue Tribunal from considering the revision on merits and holding that the appeal was barred by law of limitation. Thus, there is no infirmity, whatsoever, in the impugned order. Hence, the petition is dismissed.

**[Smt. R. P. SondurBaldota, J.]**