

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

WRIT PETITION NO.2463 OF 2014

Jama Masjid Nawayati Trust and others

.. Petitioners

Versus

Pandurang Janardan Kini and others

.. Respondents

**Mr. Vaibhav Nagvekar i/by Judicare Law Associates, for the
Petitioners.**

Mr. S. P. Bharti, for the Respondent Nos.6 & 7.

CORAM : R.M. SAVANT, J.

DATE : 31st MARCH 2016

PC.

1. The writ jurisdiction of this Court is invoked against the order dated 29.01.2013 passed by the Learned President of the Maharashtra Revenue Tribunal, Mumbai, by which order, the Appeal filed by the Petitioners herein came to be dismissed.

2. The Petitioners claim to be the landlords in respect of the land in question. The present proceedings have arisen out of an application made under Section 32G of the Bombay Tenancy and Agricultural Lands Act, 1948, (For short "the said Act") by the Respondent No.1 herein. In the

said proceedings notices were issued to one Moinuddin Burhan Saheb Harris who is concerned for the Petitioner Trust. However, in spite of the said notice, the Petitioner Trust did not participate in the said proceedings which culminated in an order passed by the Additional Mamletdar/ALT, Vasai on 29.12.1973 declaring the Applicant as a deemed tenant purchaser under the Bombay Tenancy and Agricultural Lands Act, 1948.

3. The said order dated 29.12.1973 passed by the Additional Mamletdar/ALT, Vasai was challenged before the Sub Divisional Officer, Vasai, which Appeal was filed on 03.10.2006 i.e. almost after a period of 33 years of the order being passed by the Additional Mamletdar and ALT Vasai. Significantly, no application for condonation of delay was filed and the filing of Appeal in the year 2006 was justified on the ground that the Appellants became aware of the order passed by the Tahsildar after the mutation entry effected in favour of the Respondent No.1 became known to the Appellants i.e. the Petitioners herein. The Sub Divisional Officer did not delve into the aspect of delay in filing the Appeal, but considered the Appeal on merits and dismissed the same by his order dated 30.06.2009.

4. The Petitioners thereafter filed a Revision before the Maharashtra Revenue Tribunal being TNC.REV.No.235/B/2010. The Learned President of the Maharashtra Revenue Tribunal dismissed the

same by the impugned order dated 29.01.2013. The Learned President of the Maharashtra Revenue Tribunal did not deem it appropriate to accept the contention urged on behalf of the Petitioners that they became aware of the order passed by the Additional Mamletdar & ALT, Vasai, only after they came to know about the mutation entry No.2597 dated 20.11.1973. The Learned President of the Maharashtra Revenue Tribunal has observed in his order dated 29.01.2013 that the notices were issued to one Moinuddin Burhan Saheb Harris. The Learned President of the Maharashtra Revenue Tribunal was of the view that the Sub Divisional Officer had erred in proceeding with the Appeal when the issue of delay in filing Appeal was to be considered, and was of the view as to how the Appeal could be entertained without there being an application for condonation of delay. The Learned President of the Maharashtra Revenue Tribunal therefore did not deem it appropriate to interfere with the order passed by the Sub Divisional Officer as the Sub Divisional officer had also decided the matter on merits. In the instant case, it is required to be noted that the original order passed under Section 32G of the said Act has been passed as long back on 15.10.1973 declaring the Respondent No.1 as a deemed tenant purchaser in respect of the land in question. In my view, therefore, having regard to the orders passed by the three Authorities below which are concurrent in so far as they confirm the declaration of

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deemed purchaser in favour of the Respondent No.1, the interdiction of this Court in its writ jurisdiction is not warranted. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]