

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

WRIT PETITION STAMP NO.34931 OF 2016

Shri. Laxman Maruti Hargude
Since deceased through his legal heirs
Shri. Rajaram Laxman Hargude and others ..Petitioners
Versus
Shri. Sunil Narayan Wadekar and others ..Respondents

Mr. T. D. Deshmukh for the Petitioners.
Mr. P. K. Dhakephalkar, Senior i/by Mr. S. R. Ganbavale for the
Respondent No.1, 2A to 2B, 3, 4, 5 and 6.
Mr. M. K. Dighe for the Respondent Nos.7 to 9.

CORAM : R. M. SAVANT, J.
DATE : 9th JANUARY, 2017

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 02.12.2016 passed by the Learned Member (Judicial) of the Maharashtra Revenue Tribunal, by which order, the Revision Application filed by the Respondent Nos.1 to 6 herein came to be allowed and resultantly, the order passed by the Agricultural Lands Tribunal and Tahsildar, Haveli dated 07.01.2000 as also the order passed by the Sub Divisional Officer dated 13.11.2002 came to be set aside. The said proceedings culminating in the impugned order dated 02.12.2016 have their genesis in the application filed by the Petitioners for fixation of purchase price in respect of the lands in question being Survey No.163/3 and 163/4 of village Kesnand, Taluka Haveli, District Pune. The

Petitioners claim to be the heirs of the original tenant who was in possession prior to the tillers day. The purchase was postponed in view of the fact that the landlady Parvatibai was a widow being the wife of the son of the original owner Yashodabai, who had expired. The Petitioners filed the said application for purchase on acquiring knowledge of the death of the said Parvatibai. The said application was filed under Section 32-F r/w Section 32-G of the Bombay Tenancy and Agricultural Lands Act, 1948. The said application was allowed by the Tahsildar and ALT, Taluka Haveli, District Pune. The Respondent Nos.1 to 6 herein who claim to be the purchasers from Parvatibai were permitted to intervene in the proceedings.

2 The Respondent Nos.1 to 6 therefore filed an Appeal before the Sub Divisional Officer, Haveli. The Sub Divisional Officer, Haveli by his order dated 13.11.2002 dismissed the Appeal resulting in the Respondent Nos.1 to 6 carrying the matter by way of a Revision to the Maharashtra Revenue Tribunal under Section 76 of the said Act. As indicated above, the said Revision Application has been allowed by the Learned Member (Judicial) of the Maharashtra Revenue Tribunal by the impugned order dated 02.12.2016. The gist of the reasoning of the Learned Member was based on the maintainability of the application filed by the Petitioners which application according to the Learned Member

was filed beyond the period prescribed under Section 32-F after the death of the widow Parvatibai. The case of the Petitioners that they became aware of the death of the said Parvatibai and thereafter they filed the application was not countenanced by the Learned Member of the Maharashtra Revenue Tribunal. In so far as the said aspect is concerned, the same is covered by the judgment of the Apex Court reported in **AIR. 1999 SC 1963** in the matter of **Appa Narsappa Magdum Vs. Akubai Ganpati Nimbalkar and others.** The Learned Member of the Maharashtra Revenue Tribunal having regard to the fact that the Petitioners had filed a suit against the original owners claiming ownership of the lands in question held that the filing of the said suit militates against the case of the Petitioners that they were tenants in respect of the lands in question. The Learned Member accordingly by the impugned order has allowed the Revision and set aside the orders passed by the Agricultural Lands Tribunal and Tahsildar, Haveli dated 07.01.2000 as also the order passed by the Sub Divisional Officer, Haveli dated 13.11.2002. In my view, having regard to the reasons on which the impugned order is founded, no case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]