

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3082 OF 2017

Balaram Nagu Durga @ Durge	...Petitioner
<i>Versus</i>	
Shri Vitthal Ramchandra Amrute	...Respondents

Mr Rahul M More, for the Petitioner.
Mr Abhijit Kadam, i/b Y.B. Dandekar, for the Respondent.

CORAM: G.S. PATEL, J
DATED: 20th November 2017

PC:-

1. Heard.

2. The Writ Petition takes exception to an order of 8th December, 2016 of the Maharashtra Revenue Tribunal, Mumbai (“MRT”). There, the present Respondent was the Applicant. The challenge was to the legality and the procedure followed in the conduct of an enquiry of the Section 32G of the Bombay Tenancy and Agricultural Act. He claims that no notice was served to him and that although this was pointed out to the Sub Divisional Officer, there was no mention of it in the Sub Divisional Officer’s judgement. The MRT noted that there was no controversy about lack of notice but even so it took care to study entire file and to peruse the Roznama. That indicated that despite an order of 17th

July 2008 of the trial Court to issue notice to the parties, no notice was ever sent to the present Respondent, the Applicant before MRT, one Amrute. The application itself for fixing the purchase price under Section 32G gave an incorrect or incomplete address for Amrute, merely showing him as resident of the village Chinchwali. It was argued that notice was properly given by affixing it on the land. Admittedly, there was no publication in any newspaper and no substituted service. The panchanama was also found to be no value since it did not disclose the names of the panchas. The order of Sub Divisional Officer challenged before the MRT was entirely silent and, therefore, the MRT concluded that the order fixing the purchase price passed by the trial Court was certainly defective, and that the Sub Divisional Officer materially erred in confirming this order. Both orders were thus held to be defective and the matter was remanded to the trial Court.

3. Having regard to this factual conspectus, it is impossible to find any infirmity with that order. Further, the MRT order does not finally determine the rights of the parties. At best, it puts both parties on an equal footing and allows the present Respondent an opportunity of being heard in the 32G proceedings. It is perhaps only necessary to clarify that all contentions are expressly left open before the trial Court.

4. The Writ Petition is rejected with these observations with no order as to costs.

5. Parties will appear before the trial Court on 18th December, 2017 with authenticated copy of this order. The Trial Court will act on an authenticated copy of this order and will fix the schedule for disposal of proceeding at the earliest convenience preferably by 30th March 2018.

(G. S. PATEL, J)