IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6850 OF 2014
WITH
CIVIL APPLICATION NO. 242 OF 2016
AND
CIVIL APPLICATION NO. 243 OF 2016

Shri Shiva Dadu Patil & anr. ... Petitioners.
Versus
Shri Dattatraya Dadoba Karale & ors. ... Respondents.

Mr. Sandeep S. Koregave, advocate for petitioners.

Mr. Manoj Patil, advocate for respondent No. 1.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : NOVEMBER 21, 2017

P.C.:

1 Heard the learned Counsel for the Petitioners and the learned Counsel for the respondent No. 1.

2 Rule. Rule made returnable forthwith with the consent of the parties.

3 The impugned order is dated 29th March, 2014 passed by the Member, Maharashtra Revenue Tribunal Pune Camp at Kolhapur. The order passed by the Sub-divisional officer in Tenancy Appeal was challenged by way of revision before the Maharashtra Revenue Tribunal.

4 Petitioner herein had filed Writ Petition No. 4389 of 2001 in this Court challenging the Judgment and Order dated 23rd March, 2001 passed by the Member of Maharashtra Revenue Tribunal, Pune, Camp at Kolhapur by which the revision was allowed and the orders passed by the Sub-divisional Officers were set aside. This Court had remanded the matter to the Maharashtra Revenue Tribunal(for short "MRT") and had directed the MRT to decide the instant proceedings afresh after perusal of the Judgment and Order dated 16/9/1963 passed in 32G proceedings and after giving an opportunity to the parties to lead additional evidence if any and in view of the same, the impugned Judgment and order dated 23rd March, 2001 was quashed and set aside.

5 The matter was remanded for reconsideration of a specific point in respect of the Judgment and Order dated 16/9/1963 in 32G proceedings. The learned MRT upon remand had held that neither of the parties had brought on record the Judgment and Order dated 16/9/1963 passed in 32G proceedings although sufficient opportunity was given. The Court had considered the Judgment of 1963 which was not challenged before any other court and hence, had attained finality. It was held that the effect of the said decision was not applicable to the suit land and therefore, there can be no enquiry under section 32G in view of the earlier decision of 1963.

6 The learned Court has lost sight of the fact that the advocate for the opponent had contended that the provisions of subsection 4 of section 33(C) of the Bombay Tenancy and Agricultural Land Act, 1948 would contemplate that an excluded tenant desirous of exercising the right conferred on him under sub-section 3 had right to inform the landlord and the Tribunal in the prescribed manner within

the period of one year during which he was entitled to exercise such right under sub-section 3.

7 The learned Counsel for the respondent submits that the said issue has not been considered by the MRT and therefore, it would once again be necessary to remand the matter and see that a fair opportunity is given to both the parties to bring on record the document. Both the Counsel submits that it is not possible to bring on record the Judgment of the year 1963 and therefore, the Court may proceed to hear other issues including applicability of section 33 of the Bombay Tenancy and Agricultural Land Act, 1948. In view of this, the matter needs to be remanded.

8 The Petition is allowed. The Order dated 29/3/2014 is hereby quashed and set aside.

9 Both the parties shall cause their appearance before the Maharashtra Revenue Tribunal on or before 20/12/2017. The

learned MRT shall assign the date for advancing arguments and in any case, conclude the proceedings on or before 30/3/2018. The parties undertake that they would not seek unwarranted adjournments before the Maharashtra Revenue Tribunal.

10 Rule is made absolute in the above terms.

11 In view of the disposal of the Writ Petition, nothing survives in the civil applications. The same are also disposed of accordingly.

(**SMT. SADHANA S. JADHAV,J)**