

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

WRIT PETITION NO.8404 OF 2016

Shri. Shantaram Damodhar Patil

..Petitioner

Versus

Smt. Prabhavati Ramniklal Shah and others

..Respondents

Mr. Sandesh D. Patil i/by Mr. Chintan Y. Shah for the Petitioner.

**Mr. S. M. Gorwadkar, Senior Advocate i/by Mr. S. A. Inamdar for the
Respondent Nos.1 & 2.**

Mr. S. D. Rayrikar, AGP for the Respondent No.3.

CORAM : R. M. SAVANT, J.

DATE : 20th MARCH, 2017

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 20.06.2016 passed by the Learned Member (Judicial), Maharashtra Revenue Tribunal (For short "MRT"), Mumbai. By the said order, the Revision Application filed by the Respondent Nos.1 and 2 herein came to be allowed and resultantly, the order dated 31.12.2012 passed by the Sub Divisional Officer, in Tenancy Appeal No.115 of 2011 came to be set aside.

2 The impugned order has been principally challenged on the ground that though it bears the signature of the Learned Member (Judicial) as having signed on 20.06.2016, but in fact has been signed by the Learned Member after he had demitted the office on account of his

retirement on 05.07.2016. The said contention is sought to be buttressed by the Petitioner by relying upon the order dated 26.10.2016 which order according to the Learned Counsel for the Petitioner has been passed by the Learned President of the MRT on the administrative side. It has been mentioned in the said order dated 26.10.2016 that the letter from the Judicial Member of the MRT on 13.07.2016 there is reference to the instant proceeding at Sr. No.2 in respect of which, the typed copy of the order was not available at least till 13.07.2016. It is further mentioned that a perusal of the note sheet indicates that on 20.06.2016 the operative part was pronounced in the open Court which is also not signed by the Presiding Officer on 20.06.2016. It seems that the Learned President of the MRT has passed the said order dated 26.10.2016 after perusing the record of the said case.

3 On behalf of the Respondent Nos.1 and 2, an affidavit in reply has been filed by them. The said affidavit has been filed to deal with the additional affidavit filed by the Petitioner. In the said affidavit in reply a copy of the operative part of the said order which was pronounced by the Learned Member of the MRT on 20.06.2016 and which bears the signature of the Learned Member of the MRT is annexed at Exh.A(Colly). The said copy of the operative part bears the signature of the Advocate for the Applicant as well as the Advocate for the

Respondents as having received the said copy on 20.06.2016 at the time mentioned below their signatures. Hence relying upon the said copy, it was the contention of the Learned Senior Counsel appearing for the Respondent Nos.1 and 2 that the operative part was in fact pronounced on 20.06.2016 and therefore it could not be said that the order has been passed on 20.06.2016. No doubt, the copy of the operative part of the order which is annexed to the affidavit in reply shows the endorsement of the Learned Advocates for the parties as having received it on 20.06.2016 at the time mentioned below their signatures. However, the fact cannot be lost sight of that the Learned President of the MRT has on the basis of the record observed that at least till 13.07.2016 the text of the impugned order was not ready and this observation has been made by the Learned President on the basis of the letter dated 13.07.2016 of the Learned Member (Judicial) himself. It seems that though the order was pronounced on 20.06.2016, the detailed order was signed by the Learned Member (Judicial) after 13.07.2016 i.e. after he had demitted his office on 05.07.2016. The order therefore obviously cannot be sustained on the said ground. Hence on the short ground that the impugned order has been signed by the Learned Member after he had demitted office, the impugned order dated 20.06.2016 would have to be quashed and set aside and the matter would have to be remanded back to the MRT for a

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de-novo consideration of the Revision Application. On remand, the parties to appear before the MRT on 03.04.2017 with a copy of the instant order. The MRT to thereafter decide the Revision Application latest by 31.07.2017. Needless to state that the contentions of the parties are kept open for being urged before the MRT. The MRT to decide the Revision Application on its own merits and in accordance with. With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]