

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

WRIT PETITION NO.11428 of 2014

Vasant Yadavrao Shitole

since deceased through LRs

Smt.Lilabai Vasantrao Shitole and ors.

: Petitioners.

versus

Bhima Babu Chormale and ors.

: Respondents.

Mr. Rahul S Kadam for the Petitioner.

Mr. Yuvraj D Patil i/by Mr. Prashant Hagare for the Respondent Nos.3 to 5.

Mr. Surel S Shah for the Respondent Nos.1, 6A and 6B.

CORAM : R. M. SAVANT, J.

DATE : 20th February 2017

P.C.

1 The order dated 11/09/2014 passed by the learned Member of the Maharashtra Revenue Tribunal, Pune is taken exception to by way of the above Petition. By the said order the Revision Application filed by the Petitioners came to be dismissed and resultantly the orders passed by the authorities below i.e. the order dated 04/04/1998 passed by the Tahasildar, Indapur and the order dated 30/12/2000 passed by the Sub Divisional Officer, Baramati came to be confirmed.

2 The Respondents herein have filed an Application under Section 32G of the Bombay Tenancy and Agricultural Lands Act 1948 (now the Maharashtra Tenancy and Agricultural Lands Act 1948). The said Application came to be allowed by the Tahasildar, Indapur by order dated 04/04/1998 and

resultantly the Application filed by the Petitioners herein raising a preliminary issue questioning the status of the Respondents came to be rejected. The Tahasildar had relied upon the order passed by this Court in LPA No.73 of 1972. Aggrieved by the said order passed by the Tahasildar, the Petitioners carried the matter by way of an Appeal before the Sub Divisional Officer, Baramati. The SDO has by his order dated 30/12/2000 dismissed the said Appeal on the ground that the issue as to whether the Respondents are tenants or not can be gone into in the proceedings under Section 32G of the said Act filed by the Respondents. Against the said order dated 30/12/2000 the Petitioners filed a Revision Application before the MRT, Pune . The learned Member of the MRT, Pune dismissed the said Revision Application by the impugned order dated 11/09/2014 and in the context of the challenge raised in the above Petition, it would be relevant to refer to the operative part of the impugned order which for the sake of ready reference is reproduced herein under :-

“This Revision Application stands dismissed.

The Judgment & Orders passed by both the Lower Courts are hereby confirmed. The Opponents are deemed purchasers of the suit land, hence the purchase price be fixed and accordingly direction is given to ALT Indapure to fix the purchase price.”

Hence the MRT has directed the ALT Indapur to fix the purchase price in respect of the land in question.

3 The Petitioners have challenged the impugned order principally on the ground that the MRT whilst deciding the Revision Application, which has arisen out of the interlocutory orders passed by the Tahasildar and SDO, has gone into the merits of the matter and has issued the directions as contained in the operative part of the impugned order. It is therefore the case of the Petitioners that the directions issued by the impugned order are beyond the scope of the relief sought vide the said Revision Application.

4 The learned counsel appearing on behalf of the Respondent Nos.1, 6A and 6B Shri Surel Shah would seek to justify the said directions on the ground that this Court in LPA No.73 of 1972 has made observation as regards the status of the Respondents being of the tenants.

5 In my view, having regard to the fact that the Application filed by the Respondents under Section 32G of the said Act is pending and the instant proceedings have arisen as a result of the Application filed by the Petitioners, it was inappropriate on the part of the learned Member of the MRT to issue the directions as contained in the operative part of the impugned order. Since the Application under Section 32G filed by the Respondents is pending, it would be

just and proper to set aside the said directions as contained in the operative part of the impugned order passed by the MRT, Pune which have been adverted in the earlier part of this order. The said directions are accordingly set aside.

6 The proceedings filed by the Respondents under Section 32G of the said Act to be decided by the ALT, Indapur latest by 31/05/2017. It would be open for the parties to urge such contentions as are available in law including the contentions of the Respondents based on the order passed by this Court in LPA No.73 of 1972. The ALT, Indapur to decide the said Application in its own merits and in accordance with law having regards to the contentions that would be urged by the parties. With the aforesaid directions, the above Writ Petition is disposed of.

[R.M.SAVANT, J]