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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.214 OF 2018

WITH
CIVIL APPLICATION NO.874 OF 2018
IN
WRIT PETITION NO.214 OF 2018

WITH
WRIT PETITION NO.981 OF 2018

WITH
CIVIL APPLICATION NO.873 OF 2018
IN
WRIT PETITION NO.981 OF 2018

Ashish C. Jhaveri
V/s.

...Petitioner

The Tahsildar & Agricultural Lands Tribunal,
Kalyan & Ors.

...Respondents

Mr.G.S. Godbole with Mr.Deepak Shukla i/b Vinod Mistry & Co. for
the Petitioner.

Ms.G.R. Golatkar, A.G.P. for the State – Respondent No.1.

Mr.Shashank Mangle i/b Mr.Harshad A. Sathe and Saurabh Butala
for the Respondent No.4.

CORAM : R.D. DHANUKA, J.
DATE : 9TH APRIL, 2018.

P.C. :-

1. By these two writ petitions filed under Article 227 of the
Constitution of India, the petitioner has impugned the order dated 1st

November, 2017 passed by the learned Tahsildar and Agricultural Lands Tribunal in remand case thereby rejecting the application filed by the petitioner seeking dismissal of the remand case on the ground that the application filed by the respondent under section 32(G) of the Maharashtra Tenancy & Agricultural Lands Act, 1948 (for short "Tenancy Act") was barred by *res-judicata*.

2. Learned counsel appearing for the respondent no.4 raises an issue of maintainability of these writ petitions on the ground that alternate remedy is available against the impugned order under section 74(1)(mb) of the Tenancy Act.

3. Mr.Godbole, learned counsel appearing for the petitioner on instructions states that his client would file an appeal under section 74(1)(mb) of the Tenancy Act within two weeks from today and would serve a copy thereof upon the learned counsel for the respondent no.4. The statement is accepted. If the appeal is not filed within two weeks from today and a copy thereof is not served upon the learned counsel for the respondent no.4, the order passed today in these writ petitions to stand vacated without further reference to Court.

4. Learned Tahsildar shall not decide the application filed by the respondent no.4 under section 32(G) of the Tenancy Act for a period six weeks from today. The petitioner would be at liberty to

apply for interim relief of the stay of the proceedings under section 32(G) before the Appellate Authority.

5. Both the writ petitions are disposed of in aforesaid terms with liberty to file an appeal under section 74(1)(mb) of the Tenancy Act before the Appellate Authority. Needless to state that the respondent no.4 will not raise the issue of maintainability of an appeal under section 74(1)(mb) Tenancy Act before the Appellate Authority and at the same time the Appellate Authority shall not dismiss the appeal if filed on the ground of maintainability.

6. I am of the view that since the petitioners in these writ petitions have been prosecuting these writ petitions in good faith and with due diligence, if any plea of limitation is raised by the respondent no.4 of filing this appeal under section 74(1)(mb) Tenancy Act, the benefit of section 14 of the Limitation Act, 1963 shall be granted to the petitioner.

7. In view of the dismissal of the above writ petitions, civil applications do not survive and are accordingly disposed of. No order as to costs.

8. All the parties including the Authorities to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)