IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11032 OF 2017

Motiram Vithu Gaikwad … Petitioner

Versus

Govind Kashinath Sonar & Ors. … Respondents

Mr. Mahendra M. Agavekar for Petitioner.
Mr. Girish R. Agrawal for Respondents.

CORAM : NITIN W. SAMBRE, J.
DATE : 16th OCTOBER 2018.

P.C.

. One Smt. Parvatabai Sonar, the widow of land owner died on 25th March 1991 and the present Petitioner claiming to be to have right of purchase pursuant to the provisions of Section 32F of the Bombay Tenancy and Agricultural Lands Act (for short, 'the Act' for the sake of brevity) has exercised the option of purchase after the expiry of the period of one year from the death of the said landlady.

2. It is claimed by the Petitioner that the limitation of one year as prescribed under Section 32F of the Act has to be construed from the date of the knowledge about death of Paravatabai i.e. the date on which the

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proceedings for mutation entry was initiated or the mutation entry was effected.

3. The learned Counsel for Petitioner so as to question the legality of the order impugned on the aforesaid issue has sought support from the Judgment of this Court in the matter of ***Yashwant Govind Botre V/s Sadashiv Mahadev More and Others***[1].

4. *Per contra*, Mr. Agrawal, the learned Counsel for Respondents i.e. legal heirs of the landlady Smt. Parvatabai would urge that issue is squarely covered by the Apex Court in the matter of ***Appa Narsappa Magdum (dead) through L.Rs. V/s Akubai Ganapathi Nimbalkar and Others***[2], particularly paragraph 4 which read thus :

> *"4. It was submitted by the learned counsel that this being a welfare legislation enacted for the benefit of tenants should be construed in a liberal manner. He also submitted that the heirs of the landlady had not given any intimation to the appellant about her death and therefore he could not have known who were the heirs of the landlady and given intimation to them. He submitted that the period of one year should be counted from the date of the knowledge of the tenant. We cannot accept this submission because language of the Sections 32-F and 31 is quite clear and the period of one year will have to be counted in*

1 **1996(1) Mh.L.J.416**
2 **AIR 1999 Supreme Court 1963**

accordance with the said provisions and not from the date of the knowledge of the tenant. The provision of law being clear, we cannot in such a case grant relief on the basis of equity."

5. According to him, the Apex Court has turned down the submission as regards counting limitation of one year from the date of knowledge of the tenant. He would also urge that in other catena of Judgments the Apex Court has endorsed the same view.

6. Having considered the rival submissions, I am of the view that issue of construing limitation in the proceedings initiated under Section 32F of the Act is no more *res integra,* as same having been decided in the catena of Judgments of the Apex Court including the one in the matter of **Appa Narsappa Magdum** *(cited supra)*.

7. As such, I do not notice any sufficient cause which warrants interference in extraordinary jurisdiction so as to infer that the limitation for exercising option as provided under Section 32F of the Act will commence from the date of knowledge of the tenant.

8. As such, Writ Petition is dismissed.

(NITIN W. SAMBRE, J.)