

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.12389 OF 2018

1. Namdeo Kashiram Lohar,
Since deceased, through L.Rs.
- 1-a) Dinkar Namdeo Lohar,
Age 52 years, Occu. Agriculture
- 1-b) Damu Namdeo Lohar,
Age 55 years, Occu. Agriculture
2. Bhagwat Namdeo Lohar,
Since deceased, through L.R.

Parwatibai Bhagwat Lohar,
Age 60 years, Occu. Household
3. Baliram Namdeo Lohar,
Since deceased, through L.R.

Petitioner Nos.1 to 3-a All
R/o Plot No.14, Supreme Colony,
Shrikrushna Nagar, Gat No.181/1,
Jalgaon, District Jalgaon.
- 3-b) Bebabai Pralhad Deore,
Age 43 years, Occu. Household,
R/o Samrod, Taluka Jamner,
District Jalgaon.
4. Sow. Ushabai Himmat Mistari,
Age 54 years, Occ. Household,
R/o Talegaon, presently residing at
Plot No.14, Supreme Colony,

((2))

Shrikrushna Nagar, Gat No.181/1,
Jalgaon, District Jalgaon

... PETITIONERS
(Original Applicants)

VERSUS

1. The Sub-Divisional Officer,
Jalgaon Division, Jalgaon,
District Jalgaon.

2. The Tahsildar, Jamner,
Tq. Jamner, District Jalgaon

3. Madhav Ganesh Rajhans,
Age major, Occu. Service,
R/o 10, Dena Vijay Society,
Near Usha Kiran Society,
Sambhaji Chowk, Nashik,
District Nashik

4. Parshuram Ganesh Rajhans,
Age major, Occ. Service,
R/o P and T Colony,
Sharnapur Road, Nashik,
District Nashik

... RESPONDENTS

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Shri A.V. Hon, Advocate for petitioners

Shri P.M. Kulkarni, A.G.P. for State

Shri A.M. Phule, Advocate for respondent No.3

Shri Sanket S. Kulkarni, Advocate for respondent No.4

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CORAM: R.G. AVACHAT, J.

DATED : 30th AUGUST, 2019.

JUDGMENT :

Heard learned counsel for the parties. Rule. Rule
made returnable forthwith and heard finally with the consent of

learned counsel appearing for the parties.

2. Challenge in this petition is to order dated 6/3/2012, passed by the Tahsildar, Jamner in tenancy Application No.9/2011 and subsequent orders, one passed by Sub-Divisional Officer, Jalgaon, dated 16/8/2014 in Tenancy Appeal No.2/2012 and the Maharashtra Revenue Tribunal, Bench at Aurangabad, dated 23/8/2018, in Case No.63/B/2014/Jalgaon, affirming the decision of the Tahsildar, Jamner. The petitioners herein claim to be heirs/ legal representatives of one Namdeo Lohar, Baliram Lohar and Bhagwat Lohar. These trio had claimed to have been tenants, in possession of agricultural land, being Gat No.105, admeasuring 3 Hectors 35 R (Old Survey No.38/1.

3. The petitioners are the original applicants in the Tenancy Application (No.9/2011) before the Tahsildar, Jamner. The application was preferred for fixation of price of a tenanted land. The tiller's date was stated to have been postponed since the landlady was a widow.

4. All the three authorities below have given concurrent finding, holding that the applicants (petitioners

herein) were not in possession of the land in dispute. The application was preferred after a period of two years from the date of death of the landlady.

5. Shri Hon, learned counsel for the petitioners would submit that, the date of death of the landlady was not in the knowledge of the petitioners. It was the duty of the legal representatives of the deceased landlady to inform the applicants about her death. The learned counsel urged for allowing him to produce a death certificate from the record of the civil suit, instituted by the heirs of the landlady.

6. The learned counsel for the respondents would, on the other hand, submit that, the three authorities below have given a concurrent finding of fact. This Court, in exercise of revisional jurisdiction, cannot interfere therewith.

7. I have carefully perused the decisions given by the authorities namely Tahsildar, Jamner, Sub-Divisional Officer, Jalgaon and the Maharashtra Revenue Tribunal, Bench at Aurangabad. There is a concurrent finding of fact of all these three authorities. The petitioners are not found to be in possession of the disputed land. The record indicates that, the

landlady passed away in or about the year 1967. The legal position is very much clear that, where the landlady is a widow, the tenant shall have right to purchase such land under Section 32, within two years from the expiry of the period during which such landlady is entitled to terminate the tenancy under Section 31. Such right of purchase needs to be exercised within a period of two years from the date of date of the landlady. There is concurrent finding of fact that the landlady passed away in 1967. The petitioner preferred application in the year 2011 under Section 32-G of the Maharashtra Tenancy and Agricultural Lands Act for fixation of the purchase price

8. The issue is no longer res-integra in case of **Appa Narsappa Magdum (Died) through L.Rs. Vs. Akubai Ganpati Nimbalkar & ors.**, reported in **[AIR 1999 SC 1963]**. The Hon'ble Supreme Court observed that, the language of Sections 32-F and 31 is quite clear and the period of one year will have to be counted in accordance with the said provision and not from the date of the knowledge of the tenant.

9. Since the landlady passed away in 1967, the petitioners should have moved the application in 1969 i.e. within

two years from the date of death of the landlady. Since the application was not filed within limitation, the same has rightly been rejected by the authorities below.

10. In view of the above, the writ petition fails. The same is dismissed. Rule discharged.

(R.G. AVACHAT)
JUDGE

fmp/-