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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 5138 OF 2019**

Shri. Dadu Subhana Khot
(Since Decd.) through LR's

.....Petitioners

V/s.

Shri. Narhar Waman Kulkarni
(Since Decd) through LR's

.....Respondents

Mr. Pradeep D. Dalvi for the Petitioner
Mr. Prajakt M. Arjunwadkar for respondent nos. 1A to 1D

CORAM : NTIN W. SAMBRE, J.

DATE : AUGUST 16, 2019.

P.C.

Heard.

2 In view of Judgment in the matter of **Hariba Keshav Barbole Vs. Smnt. Motibai Deepahcnad [1974 Mh.L.J. 823]**, what was expected of respondent-landlord is to establish its bonafides in support of prayer of possession for personal cultivation as contemplated under Section 33B of Maharashtra Tenancy and

Agricultural Lands Act, 1948 ('the Act' for short). This Court passed a detailed order on 14/08/2019 to the aforesaid effect.

3 Though the learned counsel for respondent has relied on the Judgment of the learned Single Judge in the matter of **Subhadra Nivrutti Dhere and others Vs. Shankar Digambar Dixit deceased through Lrs [2009 (6) Mh.L.J.]** so as to substantiate his contention, the fact remains that said Judgment is in ignorance of the Judgment of the Division Bench in the case of **Hariba Keshav Barbole** referred supra.

4 As a consequence of observations of the Division Bench in para 10 which is reproduced in the order of this Court on 14/08/2019, in my opinion, the orders impugned in the present petition dated 7th March, 2019, so also order passed by the Agricultural Lands Tribunal, Kagal, Dist. Kolhapur on 24th December, 1975 reversed in Tenancy Appeal No. 4 of 2013 vide order dated 28th February, 2017 by the Sub-Divisional Officer are quashed and set aside.

5 Parties to the petition have agreed to appear before the Agricultural Lands Tribunal, Kagal, Dist. Kolhapur so as to pursue the proceedings taken out under Section 33B of the Act on 30th September, 2019. The Tribunal need not to issue fresh notices to the parties in the aforesaid matter.

6 It shall be open for the respondent to establish his bonafides as provided under Section 33B of the Act, if required by adducing appropriate evidence in both forms i.e. oral and documentary.

7 Since parties are agitating for last more than 40 years, it will be appropriate to direct the Tribunal to decide the claim of the respondent referred under Section 33B of the Act within period of 3 months thereafter. Petition stands disposed of in the above terms.

[NITIN W. SAMBRE, J.]