

Tandle

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 3820 OF 2002

|                                       |   |                        |
|---------------------------------------|---|------------------------|
| Smt. Vinda Shripad Rege               | ] |                        |
| <i>Since deceased by Lrs.</i>         | ] |                        |
| 1. Shri Mahadeo Shripad Rege          | ] |                        |
| <i>Since deceased through Lrs.</i>    | ] |                        |
| 1a) Madhan Mahadeo Rege,              | ] |                        |
| Age : 62 years,                       | ] |                        |
| House No. 821, Near Bank of India     | ] |                        |
| Mathewada, At & Post Aronda,          | ] |                        |
| Taluka Sawantwadi,                    | ] |                        |
| Dist. Sindhudurg.                     | ] |                        |
|                                       | ] |                        |
| 2. Shri Vikas Shripad Rege            | ] |                        |
|                                       | ] |                        |
| 3. Miss Ujjwala Shripad Rege          | ] |                        |
| Both Nos. 2 & 3 residing at           | ] |                        |
| Block No. 11, Bakul Society,          | ] |                        |
| Building No. 11, Bakul Society,       | ] |                        |
| Bulding No. 1, 2 <sup>nd</sup> Floor, | ] |                        |
| 79 Lallubhai Park, Road No. 3,        | ] |                        |
| Andheri (West), Mumbai – 400 058.     | ] |                        |
|                                       | ] | <b>... Petitioners</b> |

***Versus***

|                                      |   |  |
|--------------------------------------|---|--|
| 1. Shri Narayan Krishna Muthye       | ] |  |
|                                      | ] |  |
| 2. Shri Sonu Mahadev Muthye          | ] |  |
|                                      | ] |  |
| 3. Shri Ankush Atmaram Muthye        | ] |  |
|                                      | ] |  |
| 4. Shri Gangaram Bapu Muthye         | ] |  |
| Residing at & Post Kavathani,        | ] |  |
| Taluka Sawantwadi, Dist. Sindhudurg. | ] |  |

- |      |                                       |   |                 |
|------|---------------------------------------|---|-----------------|
| 5.   | Shrimant Shivram Savant Khemsawant    | ] |                 |
|      | Bhosale,                              | ] |                 |
|      | Since deceased through L.rs.          | ] |                 |
|      |                                       | ] |                 |
| 5(a) | Smt. Satyashiladevi Shivramraje       | ] |                 |
|      | Khemsawant Bhosale                    | ] |                 |
|      | Residing at Rajwada,                  | ] |                 |
|      | At & Post Sawantwadi,                 | ] |                 |
|      | Dist. Sindhudurg                      | ] |                 |
|      |                                       | ] |                 |
| 5(b) | Smt. Shivpriya Kamlakar Bhosale       | ] |                 |
|      | Residing at 71, Advant,               | ] |                 |
|      | General Bhosale Marg,                 | ] |                 |
|      | Mumbai – 400 021.                     | ] |                 |
|      |                                       | ] |                 |
| 5(c) | Shri Khemraj alias Balraje Khemsawant | ] |                 |
|      | Bhosale                               | ] |                 |
|      | Residing at Rajwada,                  | ] |                 |
|      | Taluka Sawantwadi,                    | ] |                 |
|      | District Sindhudurg.                  | ] | ... Respondents |

.....  
Mr. Rahul Kadam for Petitioners.  
None for Respondents.

.....

**CORAM : A. S. GADKARI, J.**  
**DATE : 25<sup>th</sup> JULY, 2019**

**ORAL JUDGMENT :**

1. By the present petition under Article 227 of the Constitution of India, the petitioners have questioned correctness of Judgment and Order dated 13<sup>th</sup> September 2000, passed by the learned President of Maharashtra Revenue Tribunal, Mumbai in Revision Application No. 101 of 1998.

2. Heard Shri Kadam, learned counsel for the petitioners at length. The respondent nos. 1 to 4 are absent, despite service. Perused the record.

3. On an application filed by the respondent no. 1 to 4 under Section 70(b) of the Maharashtra Tenancy and Agricultural Lands Act, ("MTAL Act" for short), the Agricultural Land Tribunal ("ALT" for short), Sawantwadi registered the same as case no. 54 of 1990. The ALT recorded evidence of various witnesses including the witness produced by the petitioners. The ALT after hearing the parties to the said application and after scrutinizing the evidence available on record by its elaborate Order dated 30.11.1992 has held that, the respondent nos. 1 to 4 herein, have established their right as tenants prior to 01.04.1957 in the suit land. The ALT has further held that, the petitioners herein could not establish the fact that they are tenants in the suit land.

4. In an appeal, preferred by the petitioner's mother, bearing Tenancy Appeal No. 19 of 1993 before the Sub-Divisional Officer, Sawantwadi, the Appellate Authority while allowing the appeal has quashed and set aside the Order dated 30.11.1992 passed by the ALT, Sawantwadi.

5. The respondent nos. 1 to 4, thereafter, preferred Revision Application under Section 76 of the MTAL Act before the Maharashtra Revenue Tribunal at Mumbai. (for short “Revenue Tribunal”).

The Revenue Tribunal, after taking into consideration the contentions of the respondents and the petitioners herein, came to the conclusion that, certain vital aspects which were necessary to be taken into consideration by the ALT had not been considered at the first instance. The Revenue Tribunal, therefore, remanded matter back to the ALT, Sawantwadi by setting aside the decisions of the ALT and Sub Divisional Officer, Sawantwadi by its impugned Judgment and Order dated 30.09.2000. The Revenue Tribunal has elaborately stated that, the contentions of both the parties are not properly considered by the ALT, Sawantwadi, at the first instance. The Revenue Tribunal has directed the ALT, Sawantwadi to give opportunity to the concerned parties to adduce evidence and after hearing the parties hereto to decide their claim as per the law. For the sake of brevity, repetition of the reasoning given by the Revenue Tribunal is hereby avoided. Suffice it to say that, the reasoning given by the MRT for remanding the case back, is right and proper and is in the interest of justice. After perusing the impugned Judgment and

Order, this Court finds that there is no error or illegality committed by the Revenue Tribunal in it.

This Court therefore finds no merits in the present petition.

6. It is to be noted here that, as the original proceedings instituted by the respondent nos.1 to 4 is of the year 1990, the ALT, Sawantwadi is hereby requested to conclude the hearing of case no. 54 of 1990 within a period of one year from the date of receipt of the present order.

7. Interim relief granted by this Court, by its Order dated 29<sup>th</sup> September 2005, to remain in force till the conclusion of hearing of the said application no. 54 of 1990.

8. Writ Petition is disposed of in the aforesaid terms.

**(A. S. GADKARI, J.)**