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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4211 OF 2019

Ramkrishna Baburao Vidur
(Suryapujari) Decd through LR

.....Petitioner

V/s.

Shri. Sambha Shankar Zol and others

.....Respondents

Mr. Vaibhav R. Gaikwad for the Petitioner
Mr. R. P. Kadam AGP for the State

CORAM : NITIN W. SAMBRE, J.

DATE : AUGUST 2, 2019.

P.C.

The orders impugned in this petition are passed by Maharashtra Revenue Tribunal ('MRT' for short) on 14/04/2018 in exercise of Revisional Jurisdiction thereby confirming the order of Sub-Divisional Officer ('SDO' for short) in an appeal passed on 30/10/2015 in which the order of Tahsildar dated 30/06/1975 came to be confirmed.

2 The facts necessary for deciding present petition are as under:

(i) Respondents were tenants of deceased father of the petitioner namely Ramkrishna. The deceased father preferred proceedings before Tahsildar pursuant to provisions of Section 29 and 31 of the Maharashtra Tenancy and Agricultural Lands Act, 1948 ('the Act' for short) which were answered against father of the petitioner. He has also preferred proceedings under Section 88-C which were also answered against the petitioner. In the aforesaid background, proceedings taken out by respondent for determining the purchase price of the land pursuant to provisions of Section 32G of the Act came to be decided by the order impugned passed in 1975.

(ii) It appears that respondent thereafter deposited amount towards purchase price being deemed purchaser on a tillers day.

(iii) Thereafter respondent applied for issuance of certificate under Section 32M of the Act. Since 32M certificate was ordered to be issued in favour of respondent, petitioner has chosen to prefer proceedings in question challenging the order passed under Section

32G and consequential order passed under Section 32M of the Act.

3 The submissions of the learned counsel for the petitioner is, provisions of Section 32F underwent amendment in the year 1969. Before the amendment to the said provisions, Section 32G of the Act contemplates issuance of notice within one year from the date of attaining majority by the landlord. As respondent has failed to issue such notice, about his intention to purchase land in question, order under Section 32G of the Act and consequential order under Section 32M ought not to have been passed. Relying upon the Judgment of this Court in the matter of **Anna Bhau Magdum (since deceased by L.R.'s) Vs. Babasaheb Anandrao Desai**¹ the submissions of the learned counsel for the petitioner is, orders impinged cannot be sustained for the following reasons:

(a) That the notice contemplated under Section 32G about an intention of the respondent-tenant to purchase land in question within period of one year from the date of attaining majority by the

¹ [(1995) 5 SCC 243]

landlord was not issued and;

(b) That it being a statutory provision, rights carved thereunder in favour of the landlord cannot be relaxed or given go-by.

4 In the aforesaid background, submissions of the learned counsel for the petitioner is, orders impugned are not sustainable and are liable to be quashed and set aside.

5 The learned AGP supports the order impugned for the reasons recorded therein and sought dismissal.

6 Considered rival submissions.

7 Concurrent findings of fact are recorded by all three Authorities about order passed in exercise of powers under Section 32G on 30/06/1975 pursuant to which tenant has already deposited purchase price. Deceased father of present petitioners

pursuant to provisions of Section 32H of the Act has withdrawn the said amount of purchase price in 4 installments. Fact remains that proceedings taken out by the father of the petitioner pursuant to provisions of Section 29 and 31 of the Act were answered against father of the petitioner before order under Section 32G of the Act was given effect to. Fact remains that proceedings taken out by the father of the petitioner under Section 88C of the Act was also answered against the petitioner.

8 The aforesaid conduct of the father of the petitioner *prima facie* demonstrates that he has accepted order passed under Section 32G of the Act by accepting purchase price and has not questioned the order passed under Section 32G of the Act thereafter.

9 Just because father of the petitioners has expired and the petitioners have attained majority, that by itself will not give any right to the petitioners to question the said order after a period of more than 30 years.

10 No doubt, SDO, while entertaining the Appeal in the year 2015 has condoned the delay, however, this Court cannot be insensitive to the fact that purchase price was already received by the father of the petitioners and during the lifetime, he has never questioned the order passed under Section 32G of the Act, way back in the year 1975.

11 In the aforesaid background, having regard to the fact that father of the petitioners has already withdrawn purchase price which was deposited by the respondent, concurrent findings recorded by all three authorities against the petitioner, in my opinion, no case for consideration in supervisory jurisdiction is made out.

12 Petition fails, dismissed.

[NITIN W. SAMBRE, J.]