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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 8367 OF 2019**

Masjid Deosthan Trust

.....Petitioner

V/s.

Shri. Genbhau Bhagaji Bhaiyye
and others

.....Respondents

Mr. Hassnain Kaazi Sayyed a/w Shraddha Vhavhal for the Petitioner
Mr. Dilip Bodake i/b Mr. Ganesh S. Shelar for respondent no. 6B**CORAM : NITIN W. SAMBRE, J.****DATE : AUGUST 16, 2019.****P.C.**

Heard.

2 Against the order of Maharashtra Revenue Tribunal ('MRT' for short) remanding the matter back to the Sub-Divisional Officer ('SDO' for short) to decide an Appeal preferred by the petitioner under Section 74 of the Maharashtra Tenancy and Agricultural Lands Act, 1948 (Hereinafter referred to as 'the Act' for the sake of brevity), present petition is preferred.

3 The submissions are, in 2013-2014, petitioner is granted status of that of a registered Waqf and that being so, Waqf Tribunal being armed with powers of a Revenue Authority, proceedings ought not to have been continued before the Agricultural Lands Tribunal or such other authorities under the provisions of the Act.

4 The other contention is, since the petitioner was not a party before Agricultural Lands Tribunal when the order under Section 32G and 32M of the Act was passed in favour of the respondent, there is no question of Appeal by the petitioner under Section 74 of the Act, being hit by the limitation. According to him, the moment petitioner got knowledge of the order of Agricultural Lands Tribunal passed in exercise of powers under Section 32G & 32M of the Act, petitioner has chosen to prefer the Revision.

5 In view of above, according to him, order of MRT impugned in the petition is not sustainable.

6 *Per contra* the learned counsel for respondent-tenant supports the order.

7 Considered submissions.

8 It is an admitted fact that petitioner was not a party before Agricultural Lands Tribunal when the order under Section 32G and 32M of the Act was passed.

9 It is the case of the petitioner that it got registration as Waqf and the property in question is mentioned in the schedule as 'Waqf property' (Religious Waqf). He has chosen to prefer appeal before SDO under Section 74 of the Act.

10 What can be noticed is, petitioner has invoked provisions of Section 74 of the Act. Feeling aggrieved by the order passed by Agricultural Lands Tribunal and Section 74 prescribes for certain limitation.

11 The contention of the petitioner that he was not a party before Agricultural Lands Tribunal and as such the moment he received knowledge of the order of Agricultural Lands Tribunal, he has immediately preferred the Appeal, are the submissions. His contention that his Appeal under Section 74 of the Act is not barred by limitation cannot be gone into at this stage of the proceedings as it is always open for the petitioner to canvass such contention before

SDO in Appeal pending at his behest. Apart from above, the fact remains that petitioner is recognized as Religious Waqf since 2013-2014. That being so, powers conferred on the Waqf Board of a Revenue Authority cannot be invoked by the petitioner so as to substantiate his claim of non maintainability of the proceedings before Revenue Authorities as such powers are conferred by amending to the Waqf Act with prospective effect.

12 As such, Revenue Authority, in my opinion, is having every power to adjudicate the claim brought before it. This Court cannot be oblivious to the fact that it is the petitioner who has invoked the provisions of the Maharashtra Tenancy and Agricultural Lands Act before SDO pursuant to provisions of Section 74 of the Act.

13 In the aforesaid background, keeping the petitioner's option open to canvass his claim that his Appeal was not barred by limitation, in my opinion, no interference is warranted in the present writ petition.

14 Petition fails, stands dismissed.

[NITIN W. SAMBRE, J.]