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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 5933 OF 2016

Jagannath Laxman Patil & Ors. ... Petitioners
Vs.
Dharamchand Poonamchand Oswal & Ors. ... Respondents

WITH

WRIT PETITION No. 1291 OF 2018

Madhyu Kusha Thombre
(since deceased through LR.) & Ors. ... Petitioners
Vs.
State of Maharashtra & Ors. ... Respondents

WITH

WRIT PETITION No. 13853 OF 2018

Rajesh G. Kshirsagar & Ors. ... Petitioners
Vs.
State of Maharashtra & Ors. ... Respondents

WITH

WRIT PETITION No. 13855 OF 2018

Namdev Kalu Aagaj & Ors. ... Petitioners
Vs.
State of Maharashtra & Ors. ... Respondents

Mr. Aniket Ranade, for the Petitioners.

Mr. S. G. Karandikar, for Respondent No. 1 in WP. 5933/2016, and for
Respondent No. 2 in WPs. 1291/2018, 13853/2018 and 13855/2018.

CORAM : C. V. BHADANG, J.

DATE : JANUARY 9, 2020

ORAL JUDGMENT :

1. Heard. Rule in all petitions. Rule made returnable forthwith. Mr. S. G. Karandikar waives notice for Respondent No. 1 in Writ Petition No. 5933/2016, and for Respondent No. 2 in Writ Petition Nos. 1291/2018, 13853/2018 and 13855/2018. By consent of parties, all writ petitions are taken up for final hearing.

2. All three petitions can be disposed of on a short count as the matter would be covered by the decision of Hon'ble Supreme Court in the case of ***Vasant Ganpat Padave & Ors. Vs. Anant Mahadev Sawant & Ors.***¹.

3. Indisputedly, the predecessors of the Petitioners were in possession of the subject lands on the Tillers' day. It is also not in dispute that on the Tillers' day, the landlady being a widow, the investiture of the title in the tenants was postponed.

4. Learned counsel for the Petitioners, placing reliance on the decision of the Supreme Court in the case of ***Vasant Padave (supra)***, submits that the Amendment Act of 1969 to the Bombay Tenancy and Agricultural Lands Act, 1948 would apply even where the landlady is a

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widow on the Tillers' day. It is submitted that the intimation about cessation of disability, is required to be sent, even where the landlady is a widow. Reliance is placed on the following observations made in the case of **Vasant Padave** (*supra*) in para 44 of the judgment.

“44. Respectfully following the law laid down in these judgments, and in order to read Section 32-F(1)(a) in conformity with Article 14, we eliminate the words “.. of the fact that he has attained majority..” so that the intimation that is to be made by the landlord has to be made to tenants of all the three categories of landlords covered by the provision.”

5. Considering the aforesaid circumstances, learned counsel for the Petitioners submits that original application filed by the Petitioners will have to be remitted back to the learned Mamalatdar for deciding it afresh on its own merits and in accordance with law.

6. Learned counsel for the contesting respondents submits that in the event this Court is inclined to remit the matters back to the Mamalatdar, the issue as to whether there was any such intimation and all other factual issues be kept open.

7. On hearing the learned counsel for the parties, I do find that, in view of the law laid down by the Supreme Court in the case of **Vasant Padave** (*supra*), which would govern the present case, where the

landlady was a widow on the Tiller's day, the applications filed by the Petitioners need to be sent back to the Mamalatdar for deciding them afresh, on their own merits and in accordance with law. In the result, the following order is passed.

ORDER

- (i) All the writ petitions are partly allowed.
- (ii) The orders impugned are hereby set aside.
- (ii) Tenancy Case Nos. 32G/SR/30/2004, 32G/32/2013, 32G/30/2013 and 32G/36/2013 are restored to the file of the Mamalatdar, Khalapur, district Raigad, for deciding them afresh on their own merits and in accordance with law.
- (iii) Rival contentions of the parties, including whether there was any intimation served, are left open.
- (iv) Rule is made partly absolute in the aforesaid terms, with no order as to costs.

Vinayak
P.
Halemath

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by Vinayak P.
Halemath
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Sd/-
C. V. BHADANG, J.