

question. Some time in 1970, an application was made by the persons claiming to be the tenants before the Additional Tahsildar, Thane under Section 32G of Bombay Tenancy and Agricultural Lands Act ('BTAL' Act). By an order dated 09/02/1970, the ALT ordered the name of Shri Stanley Zusan and Shri William Francis Rodriks should be removed from the other rights where they stand as tenants and entered as occupants in place of present occupants i.e. predecessor of Petitioners. A further observation is made that there being no tenant in the land, the question of subjecting it to provisions of section 32G do not arise and hence these proceedings under Section 32G should be dropped.

2. Learned Counsel for the Petitioners submits that when the Petitioners wanted to develop the land, they applied for copies of the entries in the revenue record when it was noticed that the name of predecessor of Respondents No. 1 & 2 is entered in the column of the occupants on the basis of the order passed on 09/02/1970. An Appeal therefore came to be filed under section 74 of the BTAL Act before SDO. As there was delay of 47 years in filing the Appeal, application for condonation of delay was filed. Learned Counsel for the Petitioners contended that the proceedings indicate that the notices were pasted on the

site where the suit lands are situated. According to him, no such notice was ever received by the predecessors in title of Petitioners. The Petitioners predecessors were not aware of the order dated 09/02/1970. Learned Counsel submitted that the Tribunal was in error in proceeding on the footing that the delay is of 47 years when in fact according to him there was no delay in filing the Appeal before SDO. He submitted that the Petitioners were residing elsewhere and therefore they got knowledge about the entries made in the revenue record when the Petitioners intended to develop the suit land in 2017. In such circumstances, according to him, it is not the date of the impugned order which is relevant, but it is the date of knowledge of the order which is relevant for deciding the question of delay. The impugned order was never served on the predecessors of the Petitioners. To support his submission, learned Counsel relied upon the decision of the Hon'ble Supreme Court in the case of **Daya Singh and anr. Vs. Gurdev Singh (dead) by LRs. and ors. (2010) 2 Supreme Court Cases 194** and in the case of **Manju Puri Vs. Rajiv Singh Hanspal and ors. 2019 SCC OnLine SC 1473.**

3. Learned Senior Advocate for the Respondents No. 1 & 2 on the other hand argued in support of the impugned order. He

invited my attention to the findings recorded by the Tribunal and submitted that the findings cannot be said to be perverse as even the revenue entries which have been consistently recorded for years together after the order was passed by ALT in 1970 indicate the name of predecessors of Respondents No. 1 & 2. He submitted that no steps whatsoever were taken to challenge the order of the ALT passed on 09/02/1970. He further submitted that the Suit - Regular Civil Suit No. 547 of 2008 has been filed for declaration and injunction before Civil Judge, Senior Division, Thane.

4. Heard learned Counsel for the parties. I have gone through the orders passed by the Tribunal & SDO. The order impugned before the SDO was passed as far back as on 09/02/1970. The Appeal has been filed before SDO after 47 years. Pursuant to the order passed by ALT directing the name of predecessor of Respondents No. 1 & 2 be entered into the revenue record as occupants, there have been several entries over the years where the name of predecessors of Respondents No. 1 & 2 continue to be shown as occupants.

5. I find that the application was made before ALT under

section 32G of the BTAL Act whereby the ALT directed the name of predecessors of Respondents No.1 & 2 be entered as occupants in the revenue records in respect of the suit property. Respondents No. 1 & 2 are not declared as tenants by the said order. The order dated 09/02/1970 passed by ALT is more in the nature of entering the name of predecessor of Respondents No. 1 & 2 in the revenue record as occupants. There is no declaration of tenancy rights of Respondents No.1 & 2 in terms of provisions of BTAL Act. The SDO as well as Tribunal for the reasons recorded came to the conclusion that the Petitioners could not explain the delay satisfactorily. Even I find the delay of 47 years to be gross. I have gone through the reasons recorded by the Tribunal as well as SDO. I do not find any perversity with the view taken by the Tribunal refusing to condone the delay of 47 years.

6. In any case, there is no dispute that the Petitioners have already instituted Regular Civil Suit No. 547 of 2018 in the Court of Civil Judge, Senior Division, Thane. Considering that the order dated 09/02/1970 is made recording the name of Respondents No. 1 & 2 as occupants, the revenue entries made on the basis of said order shall obviously be subject to the outcome of the Regular Civil Suit No. 547 of 2018 which is

pending before Court of Civil Judge, Senior Division, Thane. It is well settled that revenue entries do not establish the right, title and interest in the suit property and the same are for fiscal purpose. It is for the parties to establish their right, title and interest in the suit property by instituting the proceedings before the Competent Civil Court. Subject to this clarification, I do not see any reason to interfere with the order passed by the Tribunal. Petition stands rejected.

7. Needless to mention that Civil Court shall not be influenced by the observations made by ALT in the order dated 09/02/1970 or the Tribunal and the Suit shall be decided on its own merits in accordance with law.

(M.S.KARNIK, J.)