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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 729 OF 2010**

Shri Naresh Prabhakar Kinalekar Petitioner.

V/s

Smt. Arati Ganpat Marathe and Anr. Respondents.

Mr. Milind Parab i/b Mr. Milind Parab and Associates for the Petitioner.

CORAM: NITIN W. SAMBRE, J.

DATE: MARCH 31, 2022

P.C.:-

1] In view of judgment of this Court in the matter of *Narendra Jagannath Joshi vs. State of Maharashtra* reported in **2003(3) Bom C.R.54** and that of the Apex Court in the matter of *Laxmappa Bhimappa Hulsgeri by LRs and Others vs. Hanamappa Shetteppa Korwar and Others* reported in **(2004) 7 SCC 391**, contention of the Petitioner is, issue in relation to tenancy under B.T. & A.L. Act ought to have been referred to the Tribunal. The Court while passing the order impugned below Exhibit-22 has not appreciated the said legal position. That being so, order impugned dated 4/12/2009 passed below Exhibit-22 is quashed and set aside with a direction to decide the same afresh having regard to the law referred to above in the aforesaid judgment.

2] Petition is partly allowed in the aforesaid terms.

(NITIN W. SAMBRE, J.)