

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9242 OF 2022
WITH
WRIT PETITION (ST) NO.11889 OF 2022**

Balu Narayan Nichite Since
Decd. THR. Legal Heirs
V/s.

.....Petitioner

Dinesh S. Shaha and Ors.

...Respondents

Mr. S.G.Karandikar i/by Mr. Rohit D. Joshi, Advocate for the
Petitioner.

Mr. R.S.Datar i/by Ms. Druti Datar, Advocate for the respondents.

CORAM : SANDEEP K. SHINDE, J.
DATED : 11TH OCTOBER, 2022.

P.C. :

1. Vishwas Tukaram Nichite and others (Landlords) through Power of Attorney holder Shri Sagar Maruti Rane, filed an application under Section 63(1A) of the Bombay Tenancy and Agricultural Lands Act, 1948 ('Act' for short) for forfeiting transfer permission. The Collector, Thane vide order dated 19th August, 2020 granted the application. Pending application before the Collector, Balu Narayan Nichite (Co-landlord) passed away on 26th January, 2020, because of which Mr. Rane's power to represent Balu, terminated. It appears, this fact was not

noted and/or brought to the notice of the Collector, Thane. In the result, order dated 19th August, 2020 was passed in favour of dead person. In any case, feeling aggrieved by the order dated 19th August, 2020, revision was preferred under Section 76 of the said Act before the Maharashtra Revenue Tribunal. Pending revision, death of Balu Narayan Nichite was brought to the notice of the tribunal, pursuant to which, revision applicant was directed to bring his Balu's legal representatives on record. Yet, his legal representatives were not brought on record, but revision was allowed on 7th March, 2022. This Petition under Article 227 of the Constitution of India challenges the order dated 7th March, 2022 on the restricted ground, that Tribunal could not have passed the order against Balu Narayan Nichite, who was no more.

2. Heard learned counsel for the Parties.

3. In consideration of the fact that, Balu Narayan Nichite had passed away, pending application before the Collector, the order dated 19th August, 2020 and further order dated 7th March, 2022 passed by the Tribunal against the deceased Balu Narayan

Nichite being not sustainable in law are hereby quashed and set aside. In the result, parties to the petition are relegated to the Collector for decision in application filed under Section 63(1A) of the said Act afresh, in accordance with law. However, till the decision in the said application, parties shall maintain status-quo in respect of Suit Land subsisting as on today and the Revenue Officer shall forthwith restore mutation entry no.1050 qua land in question.

4. Petitions are disposed of in aforesaid terms.

(SANDEEP K. SHINDE, J.)