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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7884 OF 2022**

Harishchandra Nago Patil Petitioner.
V/s
Prakash Sitaram Mhatre and Ors. Respondents.

Ms. Priyanka Dable for the Petitioner.
None for the Respondents.

CORAM: NITIN W. SAMBRE, J.

DATE: JULY 14, 2022

P.C.:-

1] Challenge in the Petition is to the common order dated 20th April, 2022 passed by the President, Maharashtra Revenue Tribunal, Mumbai in following Revisions:-

TNC/REV/THN/103/2020,
TNC/REV/THN/104/2020,
TNC/REV/THN/105/2020,
TNC/REV/THN/107/2020,
TNC/REV/THN/110/2020,
TNC/REV/THN/111/2020,
TNC/REV/THN/106/2020,
TNC/REV/THN/108/2020
TNC/REV/THN/113/2020
TNC/REV/THN/109/2020,
TNC/REV/THN/112 of 2020.

2] Vide said order, Tribunal has set aside order of Sub-Divisional Officer delivered on 7th October, 2020 whereby delay about 15 years was condoned

in the matter of preferring an appeal questioning order under Section 70-B of the Maharashtra Agricultural and Tenancy Act (Hereinafter referred to for the sake of brevity as “the said Act”) passed on 20th April, 2004 in favour of the Respondents/tenants.

3] Facts leading to filing of present Petition are as under:-

4] Respondent No.4 claimed to be the owner of the property which is referred to in the Petition. Respondent Nos. 1 to 3 respectively were tenants in suit property on the tiller's day i.e. 1st April, 1957.

5] Respondents/tenants have taken out proceedings for declaring them as protected tenants pursuant to the provisions of Section 70-B of the said Act. Said proceedings were allowed vide Order dated 20th April, 2004. As a sequel, Respondents/protected tenants took out proceedings under Section 32-G for determination of purchase price. The said proceedings were answered in favour of Respondent Nos. 1 to 3.

6] After aforesaid proceedings were answered, Respondent Nos. 1 to 3 continued to be in cultivating possession of part of the land under acquisition. Petitioner, thereafter, preferred proceedings before the

Respondent-Sub-Divisional Officer styling same to be under the provisions of Section 74 of the said Act in the form of appeals, questioning order passed in the proceedings taken out under Section 70-B referred above. Since the said appeals were time barred, Application for condonation of delay was taken out. Sub-Divisional Officer vide order dated 7th October, 2020 ordered condonation of delay of about 15 years on the ground that the Petitioner was not heard or put to notice before the order was passed under Section 70-B on 20th April, 2004, based on the claim that the Petitioner is in cultivating possession of the land.

7] Respondents/tenants feeling aggrieved preferred Revision before the Tribunal which came to be allowed vide order impugned.

8] Contentions of Ms. Priyanka Dable, Counsel for the Petitioner are, Petitioner is in permissive possession of the suit property on the tiller's day i.e. 1/4/1957. According to her, claim of the Petitioner is admitted by the land owner i.e. Respondent No.4 to the Petition.

In the aforesaid backdrop, she would urge that while deciding proceedings under Section 70-B of the said Act, in which Respondent Nos. 1 to 3 were declared as protected tenants, it was necessary to add the

Petitioner as necessary party to the said proceedings so also the Petitioner ought to have been heard, as the said order has caused adverse civil consequences over the rights of the Petitioner. So as to substantiate the said claim, she would invite attention of this Court to the procedure to be adopted while deciding proceedings under Section 70-B of the said Act. Counsel for the Petitioner would further urge that knowledge of proceedings under Section 70-B and 32-G is known to petitioner only after the mutation entries are effected, in 2019, which has led to filing of proceedings before the Sub-Divisional Officer at belated stage. She would as such claim that delay is unintentional and bonafide as the Petitioner was not having knowledge about the order impugned.

9] Her further contentions are, land in question is acquired for Bullet Train Project and Respondent Nos. 1 to 3 have every intention to get the said compensation disbursed illegally in their favour. As such, injunction needs to be ordered to that effect.

10] I have appreciated the aforesaid submissions in the light of the pleadings and documentary evidence placed on record.

11] It appears that Respondent Nos. 1 to 3 have initiated proceedings

under Section 70-B of the said Act for declaring them as protected tenants. In the said proceedings, partner of Respondent No.4 gave a written consent in the form of statement, admitting that Respondent Nos. 1 to 3 are in cultivating possession of the suit property and are regularly paying rent. It is also claimed by Respondent No.4 that they are not having any interest in the land and 70-B order be passed in favour of Respondent Nos. 1 to 3. Same has led to passing of order dated 20th April, 2004 under Section 70-B declaring the said Respondents as protected tenants. Once the aforesaid order was passed, appropriate entry to that effect was taken in the revenue record vide mutation entry No.398.

12] Thereafter, in the proceedings under Section 32-G price of the land was determined by the Agricultural Land Tribunal and appropriate certificate under Section 32-M appears to have been issued in favour of the Respondents/tenants. The proceedings under Section 32-M have resulted into recording of ownership right in favour of the Respondents vide revenue entry No.445.

13] Fact remains that Respondent No.4-owner has not objected or challenged the said orders passed in proceedings under Section 70-B, 32-G and 32-M of the said Act till this date. Rather statement given before the

Tribunal by the partner of Respondent No.4 reflects that they have accepted claim of Respondent Nos. 1 to 3.

14] In the aforesaid backdrop, if claim of the Petitioner is appreciated that he is in active cultivating possession of the suit property, Petitioner has not substantiated the said claim by producing on record documentary evidence. Only claim put-forth by the Petitioner is, Respondent No.4-owner is supporting his case that he is in settled possession of the suit property. Petitioner has come out with a case that order passed under Section 70-B came to his knowledge in 2019 and as such there is delay of 15 years. It is claimed that Petitioner was not intentionally joined as party to the said proceedings under Section 70-B. So as to appreciate the aforesaid contentions, least that was expected of the Petitioner was to demonstrate that he was a necessary party to the proceedings taken out under Section 70-B. It appears that since the land has gone in acquisition, Respondent No.4 has set up the Petitioner so as to have share in the compensation which is receivable by Respondent Nos. 1 to 3. There is no iota of evidence to infer that Petitioner is in possession of the suit property. At least in response to the court's query, Petitioner has failed to demonstrate his case by any of his documentary evidence but for stand of Respondent No. 4.

15] Tribunal has rightly considered the claim of the Respondents/tenants and set aside the order of Sub-Divisional Officer. Sub-Divisional Officer has relied on the contention of the Petitioner by accepting his pleadings to be gospel truth without any supporting evidence.

16] In the aforesaid backdrop, what can be noticed is, Sub-Divisional Officer has ordered condonation of delay without any legal basis which is rightly so interfered by the Tribunal.

17] In that view of the matter, no case for interference is made out. Petition fails and same stands dismissed.

18] At this stage, learned Counsel for the Petitioner submits that since MRT has stayed effect and operation of its order upto 27th June, 2022, same be extended.

19] Having regard to the reasons recorded hereinabove, stay order is extended upto 1st August, 2022.

(NITIN W. SAMBRE, J.)