



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12495 OF 2018
WITH
CIVIL APPLICATION NO.2003 OF 2019

Smt. Ujwala Rajiv Dalvi	]	
R/o. 701/702, Xanadu/E, Prathamesh Complex,	]	
Vira Desai Road, Andheri (West), Mumbai.	]	... Petitioner

Versus

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|---|---|--|
| 1. The State of Maharashtra |] | |
| 2. Sub-Divisional Officer, Panvel Division, |] | |
| SDO, Old Tana Naka, Opp. Ashwini Hospital, |] | |
| Tal. Panvel. |] | |
| 3. The Additional Tahsildar, |] | |
| Near Hall Seak Bhaji Market, (ALT Panvel), |] | |
| Mouje Ambe, Tal. Waje Tarfe Panvel, |] | |
| Dist. Raigad. |] | |
| 4. Tahsil Panvel, |] | |
| Old Tana Naka, Near Sai Nagar, Tal. Panvel, |] | |
| At Post Panvel, Dist. Raigad 610 206. |] | |
| 5. The Talathi, |] | |
| Village at Post Panvel, Tal.Panvel, Dist.Raigad.] |] | |
| 6. Mahadu Sakharam Palande |] | |
| (deceased through legal heirs) |] | |
| a) Smt. Parvati Mahadu Palande |] | |
| (deceased through heirs) |] | |
| b) Dattatray Mahadu Palande. |] | |
| 7. Atul Agnihotri. |] | |
| 8. Alvira Atul Agnihotri, |] | |
| Residents of Village – Ambe @ Vaje, |] | |
| Taluka – Panvel, District – Raigad. |] | |

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| 9. Anant Bhiva Pawar |] | |
| (deceased through legal heirs) |] | |
| a) Manohar Anant Pawar |] | |
| Age – Adult, |] | |
| b) Shankar Anant Pawar, |] | |
| Age – Adult, |] | |
| c) Chandrakant Anant Pawar, |] | |
| Age- Adult, |] | |
| d) Ashok Anant Pawar, |] | |
| Age – Adult, |] | |
| All residents of Village Ambe Via Vaje, |] | |
| Tal.- Panvel, District – Raigad. |] | |
| e) Baby Pramod Kadav, |] | |
| Age – Adult, |] | |
| Resident of Village–Salwad, Post-Nasrapur, |] | |
| Tal. Karjat, District – Raigad. |] | |
| f) Sangita Lalit Kadav |] | |
| Age – Adult, |] | |
| Resident of Village-Kandroli, Post-Chowk, |] | |
| Tal.-Khalapur, District – Raigad. |] | |
| 10. Vasant Sakharam Patil |] | |
| Resident of Village - Cherwali, |] | |
| Taluka – Panvel, District – Raigad. |] | |
| 11. Dilip Jaywant Vedpathak |] | |
| Resident of 20, Navroji Seth Street, |] | |
| J. S. Seth Road, Thakurdwar, Mumbai-2. |] | ... Respondents |

WITH

WRIT PETITION NO.5006 OF 2018

WITH

CIVIL APPLICATION NO.2004 OF 2019

Smt. Ujwala Rajiv Dalvi	]	
R/o. 701/702, Xanadu/E, Prathamesh Complex,	]	
Vira Desai Road, Andheri (West), Mumbai.	]	... Petitioner

Versus

1. The State of Maharashtra	]
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| 2. Sub-Divisional Officer, Panvel Division, |] | |
| SDO, Old Tana Naka, Opp. Ashwini Hospital, |] | |
| Tal. Panvel. |] | |
| 3. The Additional Tahsildar, |] | |
| Near Hall Seak Bhaji Market, (ALT Panvel), |] | |
| Mouje Ambe, Tal. Waje Tarfe Panvel, |] | |
| Dist. Raigad. |] | |
| 4. Tahsil Panvel, |] | |
| Old Tana Naka, Near Sai Nagar, Tal. Panvel, |] | |
| At Post Panvel, Dist. Raigad 610 206. |] | |
| 5. The Talathi, |] | |
| Village at Post Panvel, Tal.Panvel, Dist.Raigad. |] | |
| 6. Mahadu Chandru Sawant |] | |
| (deceased through legal heirs) |] | |
| a) Vithabai Kashinath Yerunkar |] | |
| Age – Adult, |] | |
| Resident of Jambivali, Post – Vavoshi, |] | |
| Tal. Khalapur, Dist. Raigad, Pin-410203. |] | |
| 7. Sachin Dattatray Palande |] | |
| Age – Adult, |] | |
| Village–Ambe Via Vaje, Tal.Panvel, Dist.Raigad |] | |
| 8. Vasant Sakharam Patil |] | |
| Age – Adult, |] | |
| Village-Vhervali, Tal-Panvel, Dist.Raigad. |] | ... Respondents |

WITH
WRIT PETITION NO.12718 OF 2018

Smt. Ujwala Rajiv Dalvi	]	
R/o. 701/702, Xanadu/E, Prathamesh Complex,	]	
Vira Desai Road, Andheri (West), Mumbai.	]	... Petitioner

Versus

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| 1. The State of Maharashtra |] |
| 2. Sub-Divisional Officer, Panvel Division, |] |
| SDO, Old Tana Naka, Opp. Ashwini Hospital, |] |
| Tal. Panvel. |] |

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| 3. The Additional Tahsildar, |] | |
| Near Hall Seak Bhaji Market, (ALT Panvel), |] | |
| Mouje Ambe, Tal. Waje Tarfe Panvel, |] | |
| Dist. Raigad. |] | |
| 4. Tahsil Panvel, |] | |
| Old Tana Naka, Near Sai Nagar, Tal. Panvel, |] | |
| At Post Panvel, Dist. Raigad 610 206. |] | |
| 5. The Talathi, |] | |
| Village at Post Panvel, Tal.Panvel, Dist.Raigad. |] | |
| 6. Shri Prabhakar Parshuram Sakhare |] | |
| R/o. Village Dundre, Tal.Panvel, Dist.Raigad. |] | |
| 7. Shri Baburav Mahadev Palande |] | |
| Since Deceased through his LR's : |] | |
| (a) Shri Arun Babu Palande |] | |
| (b) Smt. Aruna Babu Palande |] | |
| (c) Shri Suhas Daji Palande |] | |
| (d) Smt. Madhuri Daji Palande |] | |
| All R/o.Village Dundre, Tal.Panvel, Dist.Raigad |] | |
| 8. Shri Sudhakar Parshuram Sakhare |] | |
| Age – Adult, |] | |
| R/o. Village Dundre, Tal.Panvel, Dist.Raigad |] | ... Respondents |

WITH
WRIT PETITION NO.4996 OF 2018

Smt. Ujwala Rajiv Dalvi	]	
R/o. 701/702, Xanadu/E, Prathamesh Complex,	]	
Vira Desai Road, Andheri (West), Mumbai.	]	... Petitioner

Versus

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| 1. The State of Maharashtra |] |
| 2. Sub-Divisional Officer, Panvel Division, |] |
| SDO, Old Tana Naka, Opp. Ashwini Hospital, |] |
| Tal. Panvel. |] |
| 3. The Additional Tahsildar, |] |
| Near Hall Seak Bhaji Market, (ALT Panvel), |] |

- Mouje Ambe, Tal. Waje Tarfe Panvel,]
Dist. Raigad.]
4. Tahsil Panvel,]
Old Tana Naka, Near Sai Nagar, Tal. Panvel,]
At Post Panvel, Dist. Raigad 610 206.]
5. The Talathi,]
Village at Post Panvel, Tal.Panvel, Dist.Raigad.]
6. Namdev Dagdu Dalvi]
Age – Adult, Occ. - Agriculturist,]
R/o. Ambivali, Mohopada, Tal. Khalapur,]
Dist. Raigad.]
7. Tukaram Babuy Patil]
Age – Adult, Occ. - Agriculturist,]
R/o. Village-Nera, Tal. Panvel, Dist. Raigad.]
8. Pandurang Posha Khandekar]
Age – Adult, Occ. - Agriculturist,]
R/o. Village-Adai, Tal. Panvel, Dist. Raigad.] ... Respondents

WITH

WRIT PETITION NO.4446 OF 2018

WITH

CIVIL APPLICATION (STAMP) NO.22912 OF 2019

- Smt. Ujwala Rajiv Dalvi]
R/o. 701/702, Xanadu/E, Prathamesh Complex,]
Vira Desai Road, Andheri (West), Mumbai.] ... Petitioner

Versus

1. The State of Maharashtra]
2. Sub-Divisional Officer, Panvel Division,]
SDO, Old Tana Naka, Opp. Ashwini Hospital,]
Tal. Panvel.]
3. The Additional Tahsildar,]
Near Hall Seak Bhaji Market, (ALT Panvel),]

- Mouje Ambe, Tal. Waje Tarfe Panvel,]
Dist. Raigad.]
4. Tahsil Panvel,]
Old Tana Naka, Near Sai Nagar, Tal. Panvel,]
At Post Panvel, Dist. Raigad 610 206.]
5. The Talathi,]
Village at Post Panvel, Tal.Panvel, Dist.Raigad.]
6. Janya Arja Katkari]
(deceased through heirs)]
a) Shankar Janya Katkari]
Age – Adult, Occ. - Agriculturist,]
b) Chandar Janya Katkari]
Age – Adult, Occ. - Agriculturist,]
c) Budhya Janya Katkari]
(deceased through heirs)]
d) Gopinath Budhya Katkari]
Age – Adult, Occ. - Agriculturist,]
e) Lata Dharma Katkari]
Age – Adult, Occ. - Agriculturist,]
All R/o. Village-Ambe @ Vaje,]
Taluka – Panvel, Dist. - Raigad.]... Respondents

WITH
WRIT PETITION NO.12884 OF 2018

Smt. Ujwala Rajiv Dalvi]
R/o. 701/702, Xanadu/E, Prathamesh Complex,]
Vira Desai Road, Andheri (West), Mumbai.] ... Petitioner

Versus

1. The State of Maharashtra]
2. Sub-Divisional Officer, Panvel Division,]
SDO, Old Tana Naka, Opp. Ashwini Hospital,]
Tal. Panvel.]
3. The Additional Tahsildar,]
Near Hall Seak Bhaji Market, (ALT Panvel),]
Mouje Ambe, Tal. Waje Tarfe Panvel,]
Dist. Raigad.]

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| 4. Tahsil Panvel, |] | |
| Old Tana Naka, Near Sai Nagar, Tal. Panvel, |] | |
| At Post Panvel, Dist. Raigad 610 206. |] | |
| 5. The Talathi, |] | |
| Village at Post Panvel, Tal.Panvel, Dist.Raigad. |] | |
| 6. Gopal Bala Surve |] | |
| (deceased through legal heirs) |] | |
| 7. Arun Babu Palande |] | |
| Age – Adult, Occ. - Agriculturist, |] | |
| R/o. Ambe, Tal. - Panvel, Dist. - Raigad. |] | |
| 8. Vasant Sakharam Patil |] | |
| Age – Adult, Occ. - Agriculturist, |] | |
| R/o. Cheriwali, Tal. - Panvel, Dist. - Raigad. |] | |
| 9. Dilip Jaywant Vedpathak, |] | |
| Age – Adult, Occ. - Agriculturist, |] | |
| R/o. 20, Navrojiseth Street, J. S. Seth Road, |] | |
| Thakurdwar, Mumbai. |] | ... Respondents |

WITH

WRIT PETITION NO.4634 OF 2018

WITH

CIVIL APPLICATION (STAMP) NO.22904 OF 2019

WITH

CIVIL APPLICATION NO.2150 OF 2019

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| Smt. Ujwala Rajiv Dalvi |] | |
| R/o. 701/702, Xanadu/E, Prathamesh Complex, |] | |
| Vira Desai Road, Andheri (West), Mumbai. |] | ... Petitioner |

Versus

- | | |
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| 1. The State of Maharashtra |] |
| 2. Sub-Divisional Officer, Panvel Division, |] |
| SDO, Old Tana Naka, Opp. Ashwini Hospital, |] |
| Tal. Panvel. |] |

3. The Additional Tahsildar,]
Near Hall Seak Bhaji Market, (ALT Panvel),]
Mouje Ambe, Tal. Waje Tarfe Panvel,]
Dist. Raigad.]
4. Tahsil Panvel,]
Old Tana Naka, Near Sai Nagar, Tal. Panvel,]
At Post Panvel, Dist. Raigad 610 206.]
5. The Talathi,]
Village at Post Panvel, Tal.Panvel, Dist.Raigad.]
6. Bhiwa Ragho Patil]
(deceased through legal heirs)]
a) Kashinath Bhiva Patil]
Age – Adult, Occ. - Agriculturist,]
b) Keshav Bhiva Patil]
Age – Adult, Occ. - Agriculturist,]
c) Padmakar Bhiva Patil]
(deceased through heirs)]
d) Kundalik Bhiva Patil]
Age – Adult, Occ. - Agriculturist,]
e) Radhabai Bhiva Patil]
Age – Adult, Occ. - Agriculturist,]
f) Radhabai Bhiva Patil]
Age – Adult, Occ. - Agriculturist,]
g) Janakibai Shivram Patil]
Age – Adult, Occ. - Agriculturist,]
h) Kashibai Shivram Patil]
Age – Adult, Occ. - Agriculturist,]
i) Vijay Shivram Patil]
Age – Adult, Occ. - Agriculturist,]
j) Baby Mahadu Patil]
Age – Adult, Occ. - Agriculturist,]
k) Goda Yadav Damde]
Age – Adult, Occ. - Agriculturist,]
l) Asha Shivram Patil]
Age – Adult, Occ. - Agriculturist,]
m) Suman Dhondur Shelke]
Age – Adult, Occ. - Agriculturist,]
n) Anusaya Balaram Mhatre]
Age – Adult, Occ. - Agriculturist,]
o) Baby Bhiva Patil]
Age – Adult, Occ. - Agriculturist,]

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| p) Dhami Bhiva Patil |] | |
| Age – Adult, Occ. - Agriculturist, |] | |
| q) Surekha Bhiva Patil |] | |
| Age – Adult, Occ. - Agriculturist, |] | |
| All R/o. Village - Shivansai |] | |
| Taluka – Panvel, Dist. - Raigad. |] | ... Respondents |

WITH

WRIT PETITION NO.4642 OF 2018

WITH

CIVIL APPLICATION NO.2005 OF 2019

WITH

CIVIL APPLICATION (STAMP) NO.24810 OF 2019

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|---|---|----------------|
| Smt. Ujwala Rajiv Dalvi |] | |
| R/o. 701/702, Xanadu/E, Prathamesh Complex, |] | |
| Vira Desai Road, Andheri (West), Mumbai. |] | ... Petitioner |

Versus

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| 1. The State of Maharashtra |] |
| 2. Sub-Divisional Officer, Panvel Division, |] |
| SDO, Old Tana Naka, Opp. Ashwini Hospital, |] |
| Tal. Panvel. |] |
| 3. The Additional Tahsildar, |] |
| Near Hall Seak Bhaji Market, (ALT Panvel), |] |
| Mouje Ambe, Tal. Waje Tarfe Panvel, |] |
| Dist. Raigad. |] |
| 4. Tahsil Panvel, |] |
| Old Tana Naka, Near Sai Nagar, Tal. Panvel, |] |
| At Post Panvel, Dist. Raigad 610 206. |] |
| 5. The Talathi, |] |
| Village at Post Panvel, Tal.Panvel, Dist.Raigad.] | |
| 6. Shri Baburao Mahadev Palande |] |
| Since deceased through his LRs : |] |
| (a) Shri Arun Babu Palande |] |
| (b) Smt. Aruna Babu Palande |] |

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|---|---|-----------------|
| (c) Shri Suhas Daji Palande |] | |
| (d) Smt. Madhuri Daji Palande |] | |
| All R/o. Village Ambe-Via-Vaje, |] | |
| Tal. Panvel, Dist. Raigad. |] | |
| 7. Shri Prabhakar Parshuram Sakhare |] | |
| R/o. Village Dundre, Tal.Panvel, Dist.Raigad. | | |
| 8. Shri Shivram Bhiva Patil |] | |
| 9. Smt. Kashibai Shivram Patil, |] | |
| Both R/o. Ashok Baug Zopadpatti, |] | |
| Tal-Panvel, Dist.Raigad. |] | |
| 10. Smt. Janaki Shivram Patil. |] | |
| 11. Smt. Vijay Shivram Patil. |] | |
| 12. Smt. Goda Yadav Damade. |] | |
| 13. Smt. Asha Shivram Patil. |] | |
| All R/o. Shivansai, Tal. Panvel, Dist. Raigad. |] | |
| 14. Shri Atul Agnihotri, |] | |
| R/o. Village – Ambe-Via-Vaje, |] | |
| R/o. Village – Dundre, Tal.Panvel, Dist.Raigad] | | |
| 15. Shri Dilip Pradip Vedathak |] | |
| R/o. Navojiseth Street, J. S. Seth Road, |] | |
| Thakurdwar, Mumbai – 400002. |] | ... Respondents |

Mr. Vineet Naik, Senior Advocate a/w Mr. Sukand Kulkarni for Petitioners in all Writ Petitions.

Mrs. V. S. Nimbalkar, AGP for State in both Writ Petitions.

Mr. Chirag Mody a/w Mr. Parag Khandhar, Ms. Pranita Saboo & Mr. Tapan Radkar i/b DSK Legal for Respondent Nos.6 to 11.

CORAM :- SANDEEP V. MARNE, J.

RESERVED ON :- 27 OCTOBER, 2023

PRONOUNCED ON :- 03 NOVEMBER, 2023

JUDGMENT :

1. **Rule.** Rule made returnable forthwith. With the consent of the learned counsel for parties, Petitions are taken up for hearing.

2. These Petitions challenge common Judgment and Order dated 28/09/2017 passed by the President, Maharashtra Revenue Tribunal, Mumbai, rejecting Revision Applications filed by the Petitioner. In her Revision Applications, Petitioner had challenged various orders passed by the Sub-Divisional Officer, Panvel ('**SDO**') in various Tenancy Appeals instituted by her, whereby the SDO has refused to condone the delay and has accordingly dismissed the Tenancy Appeals. The issue in the present Petitions is thus about condonation of delay in filing Tenancy Appeals before the SDO.

3. All the Petitions involve similar facts. For the purpose of brevity, facts of Writ Petition No.12495/2018 are narrated.

Petitioner claims that her grandfather Shri Bhagwan Hari Shringarpure purchased land bearing Survey No.3 situated at Village Ambe Tarfe Waje, Taluka Panvel, District Raigad and became its owner. That said Bhagwan Hari Shringarpure expired in the year 1966, after which the land was inherited by Petitioner's father Shri Vasant Bhagwan Shringarpure, who had one son by name Shekhar Vasant Shringarpure and one daughter by name Ujwala Rajiv Dalvi (Petitioner). Petitioner's father Shri Vasant Bhagwan Shringarpure expired in the year 1973. Shekhar Vasant Shringarpure (Petitioner's brother) was a bachelor and expired in the year 1993.

4. It is contended by Petitioner that the land was never cultivated and was classified as Varkas Padit (uncultivable). That, illegal occupants of the land falsely claimed tenancy rights in the land and filed proceedings before the Agricultural Lands Tribunal ('**ALT**') for fixation of purchase price under Section 32G of The Maharashtra Tenancy and Agricultural Lands Act ('**Tenancy Act**'). The ALT passed Order dated

05/06/1968 deciding the proceedings in favour of the tenants and fixed purchase price under Section 32G of the Tenancy Act. Petitioner's father Vasant Bhagwan Shringarpure filed Tenancy Appeal No. 29/1969 challenging the decision of ALT dated 05/06/1968. By Order passed on 30/05/1969, the SDO, Panvel, set aside the order passed by the ALT and remanded the proceedings for a fresh hearing. It is Petitioner's case that after remand to the ALT, the Additional Tehsildar, Panvel, noticed an encumbrance in the form of mortgage of a bank on the land and therefore sent letter dated 16/12/1972 to the Civil Judge, Panvel, stating that there was a dispute regarding encumbrance of Land Mortgage Bank on the said land and the dispute is required to be referred to the Civil Judge under the provisions of section 32Q(3) of the Tenancy Act. The Civil Judge was therefore requested to call the parties and decide the issue of claim of bank and give an intimation to ALT for taking further decision with regard to fixation of purchase price.

5. It is Petitioner's case that suppressing the proceedings earlier filed and remanded to ALT as well as Reference made to the Civil Judge under Section 32Q(3), the tenants filed fresh proceedings before the ALT-cum-Addl. Tehsildar in the year 1980 for fixation of purchase price under Section 32G of the Tenancy Act. The ALT-cum-Addl. Tehsildar passed Order dated 20/05/1980 fixing purchase price of the land by holding that there was no encumbrance on the land in question. The Petitioner claimed that she was prevented from challenging the Order dated 20/05/1980 on account of valid reasons and filed Tenancy Appeals before the SDO, Panvel, in the year 2011 challenging various decisions of the ALT-cum-Addl. Tehsildar. The Tenancy Appeals came to be rejected by the SDO on the ground of inordinate delay in filing the same holding that such inordinate delay could not be condoned.

6. Aggrieved by the decisions of the SDO, the Petitioner filed Revision Applications before the MRT. By common Judgment and Order dated 28/09/2017, the MRT has proceeded to reject the Revision Applications of the Petitioner. Aggrieved by the decision of the MRT, present Petitions are filed.

7. According to the Petitioner, important developments occurred during pendency of these Petitions on the front of revenue entries. She contends that she had simultaneously preferred Revisions Applications under Section 257 of the Maharashtra Land Revenue Code, 1966 before the Divisional Commissioner, Konkan Division, alleging some of the mutation entries made in respect of the land in question. That, a report from the Deputy Collector and Deputy Director of Town Planning was called by the Addl. Commissioner, Konkan Division and during pendency of submission of report, stay order was passed restraining any further entries being made to the record of land in question. The said stay order was vacated by the Divisional Commissioner on 31/08/2015. The Petitioner filed Writ Petition No.9850/2015 before this Court, which set aside the order vacating the stay and directed the Divisional Commissioner to pass a reasoned order. In pursuance of the order passed by this Court, the Divisional Commissioner passed order dated 30/03/2016 rejecting Petitioner's Revision which was challenged by her in Writ Petition No.6373/2016. By Order dated 18/06/2018, this Court set aside the order of the Divisional Commissioner dated 30/03/2016 and remanded the proceedings to the Divisional Commissioner for fresh enquiry by continuing the interim order.

8. It is further submitted by the Petitioner that the Divisional Commissioner accordingly conducted a detailed enquiry and passed order dated 29/02/2019 holding that the contentions raised by the Petitioner

need to be verified. The Divisional Commissioner therefore directed SDO, Panvel to re-enquire the entire matter and pass the reasoned order after hearing the parties. The enquiry before the SDO, Panvel, is still pending. According to Petitioner these developments that took place during pendency of these Petitions are vital for the purpose of deciding the issue about condonation of delay in filing Tenancy Appeals before the SDO.

9. In these Petitions, this Court passed orders dated 25/02/2019 directing the parties to maintain *status-quo* and not to create any third party rights in respect of the land in question.

10. Mr. Naik, the learned senior advocate, would appear on behalf of the Petitioner in all the Petitions. He would submit that the SDO ought to have condoned the delay in filing the Tenancy Appeal as the orders passed by the ALT fixing purchase price under Section 32G are procured by grossly suppressing the facts and by playing fraud. That, the tenants did not disclose the factum of passing of order dated 30/05/1969 by SDO remanding the proceedings for fresh consideration to the ALT-cum-Addl. Tehsildar. That, they also suppressed the fact that a Reference was directed by the Addl. Tehsildar to the Civil Court in view of pendency of bank mortgage charge in respect of the land. That, in such circumstances, the tenants ought to have pursued the remedy in respect of the proceedings which were remanded. They however filed fresh proceedings before the ALT by suppressing the earlier proceedings filed. That, therefore, fresh proceedings were not maintainable and are barred by *res-judicata*. By filing the Tenancy Appeals, the Petitioner wants to highlight the illegality committed by the tenants in filing multifarious proceedings for same cause of action by suppressing facts. That, condonation of delay would enable Petitioner to put forth her case with

regard to the fraud played by the tenants. Additionally, Mr. Naik would submit that in parallel proceedings conducted under the Code, it is now proved that in the enquiry that tenancy rights have illegally been recognized. That, the Divisional Commissioner has accordingly set aside SDO's order and remitted the proceedings for fresh hearing. That, this Court has also twice granted relief in Petitioner's favour because she has a *prima-facie* demonstrable case of fraud and suppression. That, a detailed enquiry has been conducted in pursuance of the directions issued by the Divisional Commissioner and that since the revenue proceedings are reopened and a fresh enquiry is directed to be instituted by the SDO, delay alone cannot be a reason for not re-opening the tenancy proceedings. He would submit that condonation of delay would only result in Petitioner putting forth her case before the SDO and the doors of appellate authority cannot be shut on her for technical reason of delay.

11. Mr. Naik would further submit that the Petitioner has otherwise pleaded valid reason for condonation of delay in filing the Tenancy Appeals. That, the SDO and MRT ought to have appreciated that the Petitioner is the only surviving granddaughter of original owner and it was not possible for her to know all the proceedings that had taken place with regard to passing of orders under Section 32G. That she was in service in Mumbai and therefore was not oblivious about the nitty-gritties of litigations that took place between her father and the tenants. That, she acquired knowledge of the said proceedings only in the year 2010 at the time of her retirement, when she visited the land with a view to ascertain its status. Since maintainability of the proceedings filed by the tenants for fixation of purchase price under Section 32G is questionable, delay in filing of Tenancy Appeals ought to have been condoned.

12. *Per Contra*, Mr. Mody the learned counsel appearing for Respondent tenants, would oppose the Petitions. He would submit that there is gross and inordinate delay ranging between 23 to 44 years in filing the Tenancy Appeals before the SDO on the part of the Petitioner. He would submit that the Petitioner was actually aware of most of the tenancy proceedings. He would submit that the Petitioner had got her changed name after marriage mutated in revenue records in land bearing Survey Nos.3/2B, 3/5, 3/6, 3/7, 3/8, 3/9, 3/10 and 3/11 on 01/09/1994 and therefore, cannot claim ignorance about finalization of tenancy proceedings by fixation of purchase price under Section 32G. He would further submit that in respect of one set of tenants, Tenancy Appeal No.13/1996 was filed before the SDO challenging the order issuing 32G certificate dated 04/06/1968. That, the Petitioner was arrayed as Respondent No.2 in the said Tenancy Appeal. That, she not just personally acknowledged receipt of the Tenancy Appeal, but also made an application for adjournment of proceedings on 30/08/1997. That, she engaged an Advocate to defend herself in Tenancy Appeal, who canvassed submissions on her behalf. In a similar manner in few other Tenancy Appeals the Petitioner participated in the proceedings before the SDO. That, therefore, Petitioner's contention about acquisition of knowledge about passing of order under Section 32G in the year 2010 is false to her knowledge and deserved outright rejection.

13. Mr. Mody would then invite my attention to the order passed by the ALT-cum-Addl. Tehsildar on 20/05/1980 in respect of which public notices were issued in addition to service of individual notices. That, Petitioner's brother Shekhar Shringarpure had appeared before the ALT-cum-Addl. Tehsildar and had recorded his objection. That, the said order is passed by the ALT-cum-Addl. Tehsildar after hearing Shringarpures.

Mr.Mody would then submit that there was no claim by any bank regarding mortgage when ALT-cum-Addl. Tehsildar decided proceedings on 20/05/1980. That, letter dated 16/12/1972 is absolutely vague which does not specify the exact nature of charge of the bank. Nobody knows what happened to the said letter dated 16/12/1972. There is nothing on record to indicate that, Civil Court registered any Reference under the provisions of Section 32Q(3) on basis of letter dated 16/12/1972. That, no cognizance of the letter dated 16/12/1972 therefore needs to be taken. In any case, according to Mr. Mody, once it is proved that there was no encumbrance in respect of land in question, at the time of passing Order dated 20/05/1980 by the ALT-cum-Addl. Tehsildar, a mere surmise sought to be created on the basis of letter dated 16/12/1972 is required to be discarded altogether.

14. So far as the revenue proceedings are concerned, Mr. Mody would contend that the tenants are not parties to the said proceedings and are not aware about the reasons for filing them and outcome therein. That, the said proceedings are apparently filed between the Petitioner and government authorities, with which tenants have no concern. That, therefore, orders passed in those proceedings cannot be a reason for condoning the inordinate delay in filing Tenancy Appeals. In any case, according to Mr. Mody, mutation entries cannot determine rights and entitlements of parties to the land in question. That, mutation entries will have no effect on vested rights created in favour of the tenants on account of issuance of valid 32G and 32M certificates. Mr. Mody would pray for dismissal of the Petitions.

15. Rival contentions of the parties now fall for my consideration.

16. The short issue involved in the present Petitions is about condonation of delay in filing Tenancy Appeals by the Petitioner for challenging various orders passed by the ALT-cum-Addl. Tehsildar fixing purchase price under Section 32G of the Tenancy Act. The MRT has tabulated the exact length of delay in each proceedings as under :

Revision Application No.	Order impugned in the Revision (i.e. order of Sub-Divisional Officer)	Date of Order impugned in the Appeal (i.e. Order of Tahsildar)	Delay caused in filing the first appeal
337/B/2012	Tenancy Appeal No.124/2010 decided on 10/8/2011	20/5/1980	31 Years
	Tenancy Appeal No.115/2011 decided on 7/5/2012		
338/B/2012	Tenancy Appeal No.123/2010 decided on 10/8/2011	20/5/1980	31 Years
	Tenancy Appeal No.112/2011 decided on 7/5/2012		
339/B/2012	Tenancy Appeal No.4/2011 decided on 10/8/2011	22/6/1988	23 Years
	Tenancy Appeal No.109/2011 decided on 7/5/2012		
340/B/2012	Tenancy Appeal No.6/2011 decided on 10/8/2011	20/12/1967	43 Years
	Tenancy Appeal No.114/2011 decided on 7/5/2012		
341/B/2012	Tenancy Appeal No.41/2011 decided on 10/8/2011	10/6/1968	44 Years
	Tenancy Appeal No.111/2011 decided on 7/5/2012		
342/B/2012	Tenancy Appeal No.19/2011 decided on 10/8/2011	20/12/1967	43 Years
	Tenancy Appeal No.113/2011 decided on 7/5/2012		
343/B/2012	Tenancy Appeal No.18/2011 decided on 10/8/2011	3/5/1968	44 Years
	Tenancy Appeal No.110/2011 decided on 7/5/2012		
344/B/2012	Tenancy Appeal No.42/2011 decided on 10/8/2011	19/9/1968	44 Years
	Tenancy Appeal No.352/2011 decided on 7/5/2012		

The delay in filing Tenancy Appeals has thus ranges from 23 years to 44 years. In most of the proceedings (5 out of 8) the delay is of 43/44 years.

17. While Mr. Naik is fair in not disputing the position that the delay is inordinate, he has essentially pressed into service two factors which, according to him, clearly justify condonation of delay, irrespective of length of delay. These two factors are :

- (i) Non-maintainability of a fresh tenancy proceedings filed by the tenants for fixation of purchase price under Section 32G by suppressing the order passed by the SDO dated 30/05/1969 as well as Reference made to the Civil Judge under Section 32Q(3) of the Tenancy Act; and
- (ii) Reopening of the entire matter in proceedings under the Code relating to correctness of mutation entries effected in pursuance of issuance of 32G and 32M certificates.

It is therefore necessary to examine both the factors strongly relied upon by Mr. Naik.

18. According to the Petitioner, since the proceedings filed for issuance of 32G certificate were itself not maintainable, no amount of delay can justify orders passed in such proceedings. Maintainability of those proceedings decided by the ALT-cum-Addl. Tehsildar, Panvel, is essentially challenged on two counts. Firstly, the Petitioner contends that the order passed by the ALT-cum-Addl. Tehsildar on 05/06/1968 fixing purchase price under Section 32G was set aside by the SDO by order dated 30/05/1969 and the proceedings were remanded to the ALT-cum-Addl. Tehsildar for being decided afresh. According to the Petitioner, since

previously filed proceedings for determination of purchase price under Section 32G remained pending before the ALT-cum-Addl. Tehsildar, it was no longer open for the tenants to file fresh proceedings subsequently, that too by suppressing pendency of the earlier proceedings. It would be relevant here to reproduce the reasons recorded by the SDO in the order dated 30/05/1969 for remanding the proceedings.

“4. *Perusal of the Lower Court's case papers shows that:-*

- i) The statement of the Landlord and tenant are recorded on oath (vide page 9 and 11 of the Lower Court's case papers);*
- ii) The Landlord has admitted in his deposition that the respondent is a tenant and that he is on the land from a date prior to 1.4.57.*
- iii) There is nothing on record to show that a Notice was issued on the Bank;*
- iv) There is no record to show that the area of 15 acres and 28 gunthas was used for rab manure or otherwise. The area is shown as Warkas land in V.F. XIII in respect of the suit land (page 7)*
- v) There is no record to show that profits of agriculture of similar land in the locality and the prices of crops and commodities in the locality on the basis of which the A.L.T. has come to the conclusion that the rent of the land in the open market was Rs.37.50 for paddy land and Rs.62,60 for Warkas land; and*
- vi) there is no evidence to show that the village Ambe Turf Waje is declared as Backward area by Govt.*

5. *The High Court ruling in Special C.A. No.944/61 dated 23.1.62 (57 B.L.R.) referred to by Shri Shringapure is in respect of grass lands used for commercial purpose. There is a specific mention in the village Form No.XII in this case that the land is warkas land. The warkas land is defined in sub-Section 20A of Section 2 of the Tenancy Act. It will have to be ascertained whether the land in question is being used by the tenant for rab-manure or otherwise.*

The A.L.T. has adopted 80 times the assessment as the proper multiple for determining the purchase price. The basis on which this multiple has been arrived at has not been given in the order. This is arbitrary and cannot accepted in the interest of justice, equity and good conscience.

Individual notices to all persons interested are necessary. Similarly it was essential to record evidence on the profits of agriculture of similar lands in the locality and ascertain its correctness on the basis of the prices of crops and commodities in the locality as provided in Section 63-A (e)(d).

The A.L.T. has to consider all the factors mentioned in section 32-H and Section 68-A read with Rule 29 and 37 cumulatively and then to arrive at the conclusion of a reasonably fair purchase price.

The yield and the prices to be taken into consideration ought to have been for the years prior to tillers date and not for the years of enquiry.

Failure to observe the provisions of, Section 32-G and Sec.63-A has caused material injustice in this case. The order of the Lower Court will have, therefore to be set aside.

6) *The reasons for delay in preferring the appeal in paras 3 to 4 of the appeal memo are accepted as reasonable and the delay is condoned. No objection was taken by the respondent on the point of limitation.*

7) *The appeal is therefore allowed, the order of the lower Court is set aside and the case is remanded for fresh hearing in the light of observations made above and disposal according to law.”*

19. Thus, one of the observations made by the SDO for ordering remand is about non-issuance of notice to the bank. Except making this observation, there are no details about the name of the bank and nature and extent of its charge. The SDO was not satisfied with the manner in which the purchase price was determined and held that it was necessary to record evidence on the profits of agriculture of similar lands in the locality. For these reasons the SDO proceeded to remand the proceedings for fresh enquiry before the ALT-cum-Addl. Tehsildar.

20. So far as making a Reference to the Civil Court under the provisions of Section 32Q(3) of the Tenancy Act is concerned, letter of Additional Tehsildar, Panvel, dated 16/12/1972 is relied upon by the Petitioner. Provisions of sub-section (3) of section 32Q read thus :-

“33-Q

(3) *If such question involves any question of law regarding the validity of the 'encumbrance or the claim] of the holder of the encumbrance or may question regarding the amount due in respect of the encumbrance, then notwithstanding anything contained in section 85A, the Tribunal shall in the manner prescribed refer the question for decision to the Judge of the Presidency Small Causes Court, or the Civil Judge within the territorial limits of whose jurisdiction the land is situate. On receipt of such reference the Judge concerned shall, after giving notice to the parties concerned, try the questions referred to and record findings thereon and send the same to the Tribunal. The Tribunal shall then give the decision in accordance with the said findings.”*

Thus, under provisions of Section 32Q(3), a question involving validity of encumbrances or claim of the holder of the encumbrance or any question due under the encumbrance is required to be referred for the decision of a Civil Court. The objective behind making such a reference is to ensure that the purchase of land by tenants does not nullify encumbrance or charge of any person / entity. Letter dated 16/12/1972 makes a vague reference to 'dispute regarding any encumbrance of the Land Mortgage Bank'. However, no particulars of such encumbrance were mentioned in the letter. It is not Petitioner's case that in pursuance of letter dated 16/12/1972, the Civil Court registered any Reference. It appears that Petitioner's father and brother were both pursuing the proceedings against tenants at the relevant time. There is nothing on record to indicate that either of them ensured that the Reference was registered or decided. Also of relevance is the fact that making a Reference to the Civil Court is to protect the interest of the bank and not of the landlord. Therefore, failure to register the Reference by Civil Court or to answer the same did not cause any prejudice to the landlord. The Petitioner therefore, cannot be permitted to take benefit of letter dated 16/12/1972 for the purpose of questioning maintainability of the subsequent proceedings initiated by tenants for fixation of purchase price.

21. There is yet another factor which is to be borne in mind. In most of the proceedings, the ALT-cum-Addl. Tehsildar decided the 32G proceedings during the year 1967-68. It is therefore unknown as to whether SDO's order dated 30/05/1969 or Addl. Tehsildar's letter dated 16/12/1972 would be of any relevance to those cases. In my view therefore, Petitioner cannot be permitted to take advantage of a vague letter issued by the ALT-cum-Addl. Tehsildar to the Civil Court for the purpose of questioning maintainability of the proceedings filed by the

tenants for determination of purchase price under Section 32G of the Tenancy Act.

22. It must also be borne in mind that the Tenancy Act is a beneficial piece of legislation enacted for the benefit of tenants. It is therefore quite questionable as to whether the principle of *res-judicata* would apply to the proceedings filed for determination of purchase price of tenanted land under Section 32G of the Tenancy Act. However, no conclusive opinion is expressed in this regard as this Court is considering limited aspect of condonation of delay involved in the present Petitions. Suffice it to observe as on the date of decision of 32-G proceedings on 20/05/1980, the ALT-cum-Addl. Tehsildar has recorded a finding of fact that there was no encumbrance on the land. Petitioner has not disputed correctness of this finding of fact. Therefore proceedings filed by the tenants for determination of purchase price after removal of encumbrance of the bank cannot be said to be wholly non-maintainable.

23. Coming to the second factor of developments that have taken place on the front of mutation entries, in my view, the said developments were neither before the SDO nor before the MRT and therefore their decisions in refusing to condone the delay cannot be tested on the touchstone of those developments. In fact, the said developments are not even pleaded in the present Petitions and are brought on record by way of additional Affidavit sworn on 16/10/2023. It is well-settled law that mutation entries effected for fiscal purposes do not determine rights and entitlements of parties to the land in question. In my view, therefore, the developments that have occurred with regard to the correctness of mutation entries would not have any bearing on the orders passed by the ALT-cum-Addl. Tehsildar fixing purchase price under Section 32G and

consequent issuance of 32M certificates in favour of the tenants. Both are independent proceedings in that sense. If any correlation is sought to be established in the two proceedings, the orders passed in tenancy proceedings would prevail over the orders passed in proceedings relating to revenue entries.

24. I therefore find both the factors sought to be canvassed by Mr. Naik for condonation of inordinate delay ranging between 23 to 44 years to be totally unfounded. In fact, Mr. Mody appears to be right in contending that the Petitioner was never oblivious of issuance of 32G and 32M certificates. Perusal of order dated 20/05/1980 records presence of Mr. Shekhar Bhagwan Shringarpure (Petitioner's brother). Thus, the order is passed by the ALT-cum-Addl. Tehsildar after hearing Petitioner's brother. Her brother ought to have challenged the order dated 20/05/1980 within a reasonable time, which he did not. The sister cannot now be permitted to raise a belated challenge to ALT's order on specious ground that she discovered the factum of issuance of 32G certificate in the year 2010. Even this defence sought to be taken by the Petitioner of acquisition of knowledge about issuance of 32G certificate in the year 2010 appears to be factually incorrect. In Affidavit-in-reply filed on behalf of the tenants, it is demonstrated that Petitioner had mutated her changed name after marriage in respect of some of the land on 01/09/1994. It has also come on record that she has fought some of the tenancy proceedings after 1997. Therefore, the Petitioner cannot selectively feign ignorance about issuance of 32G and 32M certificates in favour of the tenants.

25. The law of limitation is founded on public policy of giving finality to orders. A landlord cannot be permitted to hound the tenants after delay of 43/44 years and question the correctness of 32G and 32M

certificates issued in their favour during 1960s. In my view, time has come to give a full stop to the endless litigation fought by the landlord against tenants. The MRT and SDO have rightly refused to condone the delay in filing Tenancy Appeals by the Petitioner. No patent error can be traced in their approach for this Court to interfere in exercise of jurisdiction under Article 227 of the Constitution of India.

26. I therefore find the orders passed by the MRT and SDO to be unexceptionable. Writ Petitions are devoid of merits, and they are dismissed without any orders as to costs. Rule is discharged.

27. In view of dismissal of Writ Petitions, Civil Applications do not survive and the same are also disposed of.

(SANDEEP V. MARNE, J.)

28. After the Judgment is pronounced, the learned Counsel appearing for the Petitioner would request for continuation of interim order granted by this Court on 22/02/2019.

29. Considering the fact that the interim order is in operation since 22/02/2019, the same is extended by eight weeks from today.

(SANDEEP V. MARNE, J.)