

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 4608 OF 2022
WITH
INTERIM APPLICATION (ST) NO. 30211 OF 2022**

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KULKARNI

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Krishna Maruti Mhatre & ors.

...Petitioners

Versus

Baliram Maruti Mhatre & ors.

...Respondents

Mr. Atul Damle, Senior Advocate, i/b Mr. Vijay Killedar, for the
Petitioners.

Mr. P. D. Dalvi, for the Applicant in IA(ST)/30211/2022.

Mr. P. G. Chavan, for Respondent Nos.1 and 2.

Mr. A. R. Kapadnis, for Respondent Nos.3 to 13.

CORAM: N. J. JAMADAR, J.

DATED : 6th APRIL, 2023

ORDER:-

1. The challenge in this petition is to an order dated 16th March, 2021 passed by the learned President, Maharashtra Revenue Tribunal, Mumbai, whereby the Tenancy Revision Application No.60 of 2018 came to be disposed of as withdrawn.

2. The petitioners had preferred an application under Section 32(G) of the Maharashtra Tenancy and Agricultural Lands Act, 1948. By an order dated 20th May, 2017, the Tahsildar and Agricultural Land Tribunal, Kalyan, allowed the application and determined the price to be paid for purchasing the agricultural

land bearing Gat No.71/1, 71/3, 72/1 and 72/2 (part) situated at Mharal (Khurd), Taluka – Kalyan, District Thane.

3. Respondent Nos.1 to 11 assailed the said order before the Sub-Divisional Officer, Kalyan in Tenancy Appeal No.23 of 2017. By an order dated 27th December, 2017, the Sub-Divisional Officer, Kalyan was persuaded to allow the appeal and quash and set aside the order passed by the ALT dated 20th May, 2017 fixing the purchase price.

4. The petitioners assailed the order passed by the SDO in Tenancy Revision Application No.60 of 2018. In the said revision an application came to be preferred on behalf of respondent Nos.1 to 11 (Exhibit-E) to the effect that a settlement had been arrived at between the parties in respect of the suit land and, therefore, the revision application may be allowed by setting aside the order dated 27th December, 2017 passed by SDO, Kalyan in Tenancy Appeal No.23 of 2017 and restoring the order dated 20th May, 2017 passed by Tahsildar and ALT, Kalyan in Tenancy fresh Case No.3/2013. It seems that, on the very day, an application came to be filed on behalf of the petitioners seeking withdrawal of the revision application itself.

5. The learned President passed an order allowing the withdrawal of the revision application. It was noted that Mr.

Kandekar, who appeared for revision application sought leave to withdraw the revision application and, therefore, the revision application was disposed as withdrawn.

6. Mr. Damle, the learned Senior Advocate for the petitioners, submitted that simplicitor withdrawal of the revision application would not be in conformity with the settlement arrived at between the parties and the intent with which the respondents had preferred application (Exhibit-E) and the applicants had filed the application (Exhibit-F).

7. Simplicitor withdrawal of the revision application would result in the order passed by SDO in Appeal No.23 of 2017 dated 27th December, 2017 holding the field and governing the rights of the parties. This would imply that the order passed by Tahsildar and ALT in Tenancy fresh Case No.3/2013 dated 20th May, 2017 determining the purchase price would stand reversed. Consequently, the petitioners would not be entitled to claim the benefit of the said order. This situation is evidently contrary to what respondent Nos.1 to 11 and the applicant desired under the settlement. Respondent Nos.1 to 11 had prayed for allowing the revision application by setting aside the order passed by SDO, Kalyan and restoring the order passed by the Tahsildar and ALT fixing the purchase price.

8. It seems that there was an element of momentary indiscretion on the part of the applicant in seeking withdrawal of the revision application pursuant to the settlement arrived at between the parties. However, the consequences which the withdrawal entails does not advance the intent of the parties.

9. It would be necessary to note that the learned Counsel for respondent Nos.1 to 11 in all fairness submitted that the revision application be restored to the file of Maharashtra Revenue Tribunal for a fresh determination.

10. Resultantly, the petition deserves to be allowed.

11. Hence, the following order:

: O R D E R :

(I) The petition stands allowed in the following terms:

(a) The order dated 16th March, 2021 disposing the revision application as withdrawn and the further order dated 2nd April, 2022 passed on an application seeking clarification, stand quashed and set aside.

(b) Tenancy Revision Application No.60 of 2018 stands restored to the file of the Maharashtra Revenue Tribunal, Mumbai.

- (c) The Tribunal is requested to decide the said revision application in accordance with law.
- (II) Ad-interim relief, granted by this Court by order dated 18th April, 2022, stands vacated.
- (III) In view of disposal of the petition, Interim Application (ST) No.30211 of 2022 for impleadment of the applicant in the petition also stands disposed.

No costs.

[N. J. JAMADAR, J.]