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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3524 OF 2014

Ananda Narayan Kadam & Ors. … Petitioners
V/s.
Late. Krishnasinh Mansingrao N. Nimbalkar Through His Legal Heirs & Ors. … Respondents

Mr. Vishwanath S. Talkute for the petitioners.
Mr. Ajinkya Udane for respondent No.7.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 15, 2024

P.C.:

1. The tenants who filed an application under section 32G of the Bombay Tenancy and Agricultural Lands Act, 1948 are challenging order passed by Member, Maharashtra Revenue Tribunal, Pune in revision application under section 76 of the Bombay Tenancy and Agricultural Lands Act, 1948 remanding the proceedings back to the Tehsildar and ALT Phaltan.

2. From the record, it appears that the petitioners initiated proceedings under section 32G of the Bombay Tenancy and Agricultural Lands Act, 1948 (hereafter, "B.T. and A.L. Act" for short). The petitioners filed Tenancy Case No.175 of 2003 under section 32G of the B.T. and A.L. Act. The predecessor of the respondents i.e. Krishnasinh Mansingrao Naik Nimbalkar was made party to the proceedings. The first authority granted certificate in respondents' favour under section 32G of the B.T. and A.L. Act.

3. The respondents who are legal representatives of Krishnasinh Mansingrao Naik Nimbalkar challenged the certificate by way of appeal before the Sub-Divisional Officer. The Sub-Divisional Officer dismissed the appeal. The respondents, therefore, approached the Maharashtra Revenue Tribunal. The Revenue Tribunal recorded a finding that the order under section 32G B.T. and A.L. Act was passed without bringing heirs and legal representatives of Krishnasinh Mansingrao Naik Nimbalkar on record. It is undisputed fact that Krishnasinh Mansingrao Naik Nimbalkar had undivided share in the property in relation to which proceedings under section 32G of the B.T. and A.L. Act were initiated. Therefore, the effect of passing of order under section 32G B.T. and A.L. Act is that such certificate is issued against a co-owner who was dead person on the date of issuance of the certificate. The Member, Maharashtra Revenue Tribunal therefore set aside the order under section 32G B.T. and A.L. Act and remanded proceedings back to be decided according to law by the Tehsildar/ALT Phaltan. Since the certificate was issued against the dead person, there is no legal infirmity in the order.

4. Considering the time spent in earlier round of litigation, the Tehsildar/ALT Phaltan is directed to decide the 32G of the B.T. and A.L. Act proceedings within six months from today.

5. The writ petition stand disposed of. No costs.

(AMIT BORKAR, J.)