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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 804 OF 1997**

Shri Vitthal Mahatru Gavade Patil, Deceased by
his heirs.

1. Shri Kamraj Vitthal Patil
2. Smt. Yamabai Baburao Patil
3. Smt. Avatabai Ishwar Patil

All are resident of Hajgoli, Taluka Chandgad, ... Petitioners
District Kolhapur.

Vs.

Smt. Ramabai Shankar Sunthankar deceased
through heir Shri Vasant Sadashiv Brahme,
Resident of House No. 1710, Ramdeo Gali,
Belgaon.

... Respondent

Mr. Pradeep J. Thorat a/w. Ms. Aditi S. Naikare, for Petitioners.

Mr. N.V. Bandiwadekar, Senior Advocate a/w. Vinayak R. Kumbhar,

Mr. Rajendra B. Khaire and Mr. Aniket S. Phapale, for Respondent.

CORAM : GAURI GODSE, J.

RESERVED ON : 4th APRIL 2024

PRONOUNCED ON : 13th JUNE 2024

JUDGMENT :-

1. This petition is filed by the heirs and legal representatives of the original tenant to challenge the judgment and order passed by the Maharashtra Revenue Tribunal ('MRT'), allowing the landlord's revision and setting aside the order of Sub Divisional Officer ('SDO')

dismissing landlord's appeals. The appeals before SDO were filed by the landlord to challenge the orders passed in favour of the petitioners under sections 32G and 32M of the Bombay Tenancy Act and Agricultural Lands Act, 1948 (now Maharashtra Tenancy and Agricultural Lands Act)('Tenancy Act').

Facts in brief:

2. Before dealing with the rival submissions made by both parties, it is necessary to note the relevant facts of the case. The petitioners are the heirs and legal representatives of the original tenant, and the respondent is the heir and legal representative of the original landlady. One Vithal Gavde Patil was the tenant of the agricultural land prior to 1st April 1957. On 22nd January 1964, the proceedings under section 32G were initiated for the determination of the purchase price. However, the proceedings were suspended as the landlady was a widow. Thereafter, on 17th July 1972, proceedings under section 32G were again initiated for the determination of the purchase price. However, the same were again suspended as the landlady, who was a widow, was still alive.

3. The landlady expired issueless on 26th July 1981. The tenant filed an application on 16th January 1984 for determination of the

purchase price as the landlady had expired. The said application was filed by the tenant for revival of the proceedings which was suspended on the ground that the landlady was a widow. On 17th March 1984, one Vasant Sadashiv Brahme, who was the nephew of the landlady, filed an application for entering his name as heir and legal representative in the revenue record. Accordingly, on 3rd April 1984, vide mutation entry no. 1480, the name of Vasant Brahme was entered in the revenue record. On 6th April 1984, the tenant filed another application for producing documentary evidence and issuance of notice to the heir and legal representative of the landlady.

4. On 18th May 1984, the Additional Tahasildar and Agricultural Lands Tribunal ('ALT') passed an order under section 32G determining the purchase price of the said land. Pursuant to the determination of the purchase price certificate under section 32M was issued in favour of the tenant. On 7th September 1984, the original tenant i.e. Vithal Gavade Patil expired.

5. The respondent filed two separate appeals to challenge the order passed under section 32G and the issuance of the certificate under section 32M. Both the appeals were dismissed by the learned SDO on 15th April 1988. Being aggrieved by the dismissal of the said

appeals, the respondent filed the revision application before the MRT. By the impugned order dated 19th December 1996, MRT allowed the revision application, setting aside the order under section 32G and issuance of the certificate under section 32M in favour of the tenant. Hence, the heirs and legal representatives of the deceased tenant have filed the present petition.

Submissions on behalf of the petitioners:

6. Learned counsel for the petitioners submitted that the proceedings initiated by the original tenant for determination of the purchase price under section 32G were kept in abeyance as the landlady was a widow at the relevant time. Thereafter, when the original tenant applied for the revival of the proceedings under section 32G, the proceedings were kept in abeyance as the landlady was a widow and was still alive. The landlady expired issueless at Belgaum in the State of Karnataka. The original tenant was unaware of the death of the landlady. The original tenant filed another application for revival of the proceedings for determination of the purchase price. One Vasant Brahme, nephew of the landlady, claimed to be the heir of the landlady based on a Will executed by her. The said Vithal Brahme, appeared in the proceedings under section 32G. He also filed an application for entering his name in the

revenue record, and his name was entered on 3rd April 1984. Thus, after hearing the heirs and legal representatives of the deceased landlady, the proceedings under section 32G were conducted, and the purchase price was fixed. Accordingly, the original tenant paid the purchase price and a purchase certificate under section 32M was issued.

7. Learned counsel for the petitioners submitted that the original tenant expired on 7th September 1984; thereafter, the respondent challenged the order passed under section 32G and the certificate issued under section 32M. Learned counsel for the petitioners submitted that the successor-in-interest of the widow landlady is under the obligation to give intimation of the death of the landlady to enable the tenant to exercise his right to purchase the property. He submitted that the widow landlady falls within the meaning of 'landlord' with a disability under section 32F of the Tenancy Act. Hence, the tenant's right to get the purchase price fixed is postponed till the demise of the widow landlady. Thus, the disability ceases to exist on the death of the widow landlady.

8. Learned counsel for the petitioners submitted that the provision of section 32F was amended in the year 1969. By way of amendment, the obligation was cast on the landlord with disability of

minority to send an intimation to the tenant on attaining majority. Thus, the limitation for the tenant to intimate willingness to purchase land would start on an intimation to the tenant regarding attaining majority by the minor landlord. The issue regarding whether the amendment of the year 1969 was applicable to all the categories of landlords with a disability was referred to the larger bench of the Hon'ble Apex Court.

9. Learned counsel for the petitioners submitted that the reference to the larger bench is decided in the case of ***Vasant Ganpat Padave(Dead) by Legal Representatives and Others Vs. Anant Mahadev Sawant (Dead) through Legal Representatives and Others***¹. Learned counsel for the petitioners submitted that in the reference decided by the Apex Court, it is held that the amendment in the year 1969 should be read by deleting the words “of the fact that he has attained majority” so as to apply to the amendment to all the categories of the landlords’ disability including a widow landlady.

10. Learned counsel for the petitioners submitted that in the present case, the proceedings under section 32G were initiated during the lifetime of the widow landlady. Hence, the proceedings were kept in abeyance. The tenant had no intimation about the

¹ (2019) 2 SCC 577

death of the landlady as she expired issueless at Belgaum in the State of Karnataka. The original tenant learnt about the death of the landlady only in the year 1984. Thus, immediately after the knowledge of the death of the landlady, the original tenant filed an application on 16th January 1984 for revival of the proceedings under section 32G. Learned counsel for the petitioners submitted that the name of the respondent was entered in the 7/12 extract as heir and legal representative of the original landlady by way of mutation entry no. 1480, dated 3rd April 1984. The original tenant was never served with intimation of the death of the landlady. Hence, the original tenant was unable to send any intimation of willingness to purchase the land to the successor-in-interest of the deceased landlady.

11. Learned counsel for the petitioners submitted that the successor-in-interest of the landlady was under obligation to send an intimation to the tenant informing about the death of the landlady. He thus, submitted that only after such intimation was served upon the tenant, the limitation period for sending intimation of willingness to purchase the property would arise. Thus, the cause of action and the period of limitation as prescribed under section 32F would begin only after the intimation of the death of the landlady is served upon

the tenant by the successor-in-interest of the deceased landlady.

12. Learned counsel for the petitioners submitted that the Apex court has interpreted the amendment of 1969 by taking into consideration the objects of the Tenancy Act by observing that the Tenancy Act is welfare legislation, and the intention was for the welfare of the tenants who have been cultivating the land personally. Hence, the Hon'ble Supreme Court held that if the amendment of the year 1989 is made applicable only to one class of disabled landlords, the same would create absurdity and deviation from the real intent of the legislation. He thus submitted that as held by the Hon'ble Supreme Court, the amendment of the year 1969 is made applicable to all classes of disabled landlords so as to provide sufficient opportunity to the tenant to purchase the land.

13. Learned counsel for the petitioners submitted that the legal principle settled by the Hon'ble Supreme Court in the decision of the ***Vasant Padave*** would be applicable retrospectively even to the present case. He thus submitted that the interpretation of the law by Courts relates back to the date of enactment unless specifically provided by the court that it would be applicable prospectively. Learned counsel for the petitioners, thus, submitted that admittedly,

an intimation about the death of the landlady was not served upon the tenant. Hence, the limitation for intimation of willingness to purchase would begin only after the knowledge of the death of the landlady. In the present case, the landlady expired issueless, and the successor-in-interest, i.e. the respondent, claimed on the basis of the Will. Hence, the successor-in-interest can be called as a 'landlord' within the meaning of section 32F only after the rights of the successor-in-interest of the landlady are established. However, the same came to the knowledge of the original tenant only after the respondent made an application to enter his name into the revenue record. The name of the respondent was entered in the revenue record on 3rd April 1984. Hence, the tenant invoked his right to purchase the land within the prescribed period of limitation under section 32F. In support of his submissions, the learned counsel for the petitioners relied upon the decision of this court in the case of ***Yeshwant Govind Botre Vs. Sadashiv Mahadev More and Others.***²

14. Learned counsel for the petitioners submitted that since there was no compliance with the provisions of section 32-F(1)(a), the obligation upon the tenant to issue notice in the prescribed format under Section 32F(1A) did not arise. The ALT issued notice to the

2 1995 SCC Online Bom 344

respondent, and the respondent appeared before the ALT. Hence, the occasion of non-issuance of notice under section 32F(1A) never arose in any of the proceedings. Thus, according to the learned counsel for the petitioners, the issuance of notice of 32G proceedings to the respondent by ALT is sufficient compliance with the requirement of intimation of willingness to purchase the property. The tenant had already expressed his intention during the lifetime of the landlady. However, proceedings were kept in abeyance only because the landlady was a widow.

15. Thus, according to the learned counsel for the petitioners, section 32F(1A) stipulates that if the tenant is desirous of exercising his right to purchase the land, he shall give an intimation to the landlord and to the tribunal. Thus, once the proceedings for the determination of the purchase price have been initiated and deferred only because of disability of the landlady, the tenant is not required to give fresh notice on the disability coming to an end. To support his submissions, learned counsel for the petitioners relied upon the decision of this court in the case of *Amrutrao Ratnakar Rajadhye Vs. Krishna Sakharam Patil and Others*³.

16. Learned counsel for the petitioners submitted that the

3 1997 SCC Online Bom 324

respondent who claimed to be successor-in-interest of the landlady based on the Will cannot be termed as a 'landlord' for the purpose of termination of tenancy under section 31 for claiming possession under section 29 until the ownership based on the Will is established. The tenant never received notice under section 32F intimating the death of the landlady. Hence, the tenant's right to purchase the land within one year from the expiry of the period would begin from the date of knowledge of the death of the landlady.

17. Learned counsel for the petitioners thus submitted that under section 31A, the right of the landlord to terminate the tenancy for cultivating the land personally under section 31 is subject to certain conditions. If the name of the person claiming to be successor-in-interest of the landlady is not entered in the revenue record, the said person would not be entitled to terminate the tenancy under section 31 of the Tenancy Act. In the present case, the respondent who claims to be the successor-in-interest of the landlady is based on the Will. Hence, until and unless the Will was established or the name of the successor-in-interest was entered as heir and legal representative of the deceased landlady, the respondent was not entitled to terminate the tenancy. Hence, the willingness of the tenant to purchase the land was submitted within the time required

under Section 32F. Hence, the original tenant was entitled to become a statutory purchaser after the demise of the widow landlady on 26th July 1981. Hence, the petitioners are entitled to fixation of the purchase price under section 32G and the ALT rightly allowed the application in favour of the petitioners.

18. Learned counsel for the petitioners further submitted that the respondent filed an appeal before the SDO against the deceased tenant; thus, the appeal preferred by the respondent against the dead person was not maintainable and required to be dismissed on that ground alone. Learned counsel for the petitioners thus submitted that the MRT erroneously set aside the order under section 32G and issuance of a certificate under section 32M in favour of the tenant.

Submissions on behalf of respondent:

19. Learned senior counsel for the respondent supported the order passed by the MRT. He submitted that the learned member of the MRT has correctly held that the tenant failed to file intimation of willingness to purchase the land as mandatorily required under section 32F. Hence, the tenant lost his right to purchase the land. The learned senior counsel for the respondent submitted that the

legal principle, as settled by the Hon'ble Supreme Court in the case of **Vasant Padave**, would be of no assistance to the argument of the petitioners. The widow landlady expired on 26th July 1981, and the application was filed by the tenant through his Power of Attorney on 16th January 1984 for conducting fresh proceedings under section 32G. Thus, on 16th January 1984, the tenant was aware that the widow landlady had expired and the respondent, i.e. Vithal Brahme, was her successor-in-interest. Thus, at that point in time, the tenant had an opportunity to give an intimation of his willingness to purchase the land to the successor-in-interest of the landlady. However, the same was not done. Hence, the proceedings initiated before the ALT for the determination of the purchase price were *void ab initio*. The perusal of the order passed by the ALT would indicate that the application was initially filed against the widow landlady through her heir Shri Vasant Brahme. Thus, it is clear that the tenant had knowledge of the widow's death and her successor-in-interest. However, the application under section 32G for determination of the purchase price was filed without giving any intimation to the landlord and tribunal in a prescribed manner as laid down under section 32F(1A).

20. Learned senior counsel for the respondent relied upon Rule

20 of the Bombay Tenancy and Agricultural Lands Rules, 1956 (**'the said Rules 1956'**). He submitted that the said Rule provides for issuing intimation in the prescribed form-X by hand delivery or post. He submitted that, admittedly, in the present case, no such intimation was given. To support his contention that it was mandatory to give such intimation in the prescribed form-X, learned senior counsel for the respondent relied upon the decision of this Court in the case of *Kashiram Mahipati Bhaskar and Another Vs. Khandu Tulshiram Jadhav and Others*⁴, hence, the interpretation of section 32F by the Apex Court in the case of Vasant Padave, would not apply to the present case. The provisions of section 32F(1A) are considered by the Apex Court in the case of *Anna Bhau Magdum Vs. Babasaheb Anandrao Desai*⁵. In para 9 of the said decision, the Hon'ble Apex Court held that the amendment to section 32F was prospective in nature. However, in the case of *Vasant Padave*, the Apex Court in para 50 while considering the decision of *Anna Bhau Magdum* held that "the time period contained in section 32-F(1A) is mandatory in nature. This case is wholly distinguishable on its facts and lays down law on section 32-F[1A] with which we are not immediately concerned".

4 2001[1] Mh.L.J. 867

5 [1995] 5 SCC 243

21. Learned senior counsel for the respondent thus submitted that the decision of the Apex Court in the case of ***Vasant Padave*** is not applicable to the facts of the present case as the provisions of section 32F(1A) were not under consideration. In the present case, the point to be considered is with regard to the non-compliance by the tenant of the mandatory provision of intimation in the prescribed form as required under section 32F(1A) read with Rule 20 of the said Rules of 1956. Learned senior counsel, thus, submitted that reliance on the decision of the Hon'ble Supreme Court in the case of ***Vasant Padave***, if held to be applicable to the facts of the present case, it is necessary to take into consideration that the judgment was delivered on 18th September 2019. The Hon'ble Supreme Court in para 41 of the Judgment observed that "we delete the words, ".... of the fact that he has attained majority", from sub-clause (a) of sub-section [1] of section 32F". Learned senior counsel also relied upon the observations of the Hon'ble Supreme Court in paragraph 49, thereby stating that "we eliminate the words, "---- of the fact that he has attained majority" so that the intimation that is to be made by the landlord has to be made to the tenants of all the three categories of landlords covered by the provision". Learned senior counsel, thus, submitted that the aforesaid deletion, as ordered by the

Hon'ble Supreme Court, has to be made effective from the date of judgment, i.e. from 18th September 2019. He submitted that the said interpretation and/or deletion of the aforesaid words from section 32-F cannot be made effective retrospectively so as not to affect all the action taken contrary to the declaration of law existing prior to the date of declaration of law. Hence, the doctrine of prospective overruling would apply to the present case. To support the said submissions regarding the prospective applicability of the legal principles laid down in the decision of *Vasant Padave*, the learned senior counsel relied upon the decisions of the Apex Court in the cases of *Managing Director, ECIL, Hyderabad and Others Vs. B. Karunakar and Others*⁶, *Harsh Dhingra Vs. State of Haryana and Others*⁷, *Ashok Kumar Gupta and Another Vs. State of U.P and Others*⁸ and *Baburam Vs. C.C. Jacob and Others*⁹.

22. Learned senior counsel thus submitted that the consistent view of the Apex Court is that the prospective declaration of law is a device innovated by the Hon'ble Apex Court to avoid reopening of settled issues and to prevent multiplicity of proceedings, hence, to avoid uncertainty and avoidable litigation. By the very object of the

6 (1993) 4 SCC 727

7 AIR 2001 SC 3795

8 [1997] 5 SCC 201

9 AIR 1999 SC 1845

prospective declaration of law, it is deemed that all actions taken contrary to the declaration of law prior to its date of declaration are validated. Learned senior counsel thus submitted that in view of the facts of the present case, the legal principle laid down in the decision of *Vasant Padave* cannot be applied to the present case, which would amount to retrospective application of the law laid down therein. Learned senior counsel for the petitioners, thus, submitted that if the legal principle laid down by the Hon'ble Supreme Court in the case of *Vasant Padave*, is made applicable to the present case, it would amount to penalizing the landlord for not performing the obligation which he was not obliged to perform at the relevant time in view of the existing declaration of law. Learned senior counsel thus submitted that no interference is called for in the decision of the MRT. He thus submitted that it is not a fit case for exercising powers under Article 227 of the Constitution of India. Hence, the petition be dismissed.

ANALYSIS:

23. I have considered the submissions made by both the parties. In view of the admitted facts with regard to the initiation of the proceedings under section 32G and its suspension on the grounds of the landlady being a widow, the initial facts as recorded herein

above are not required to be discussed. The controversy to be decided is whether the legal principle laid down by the Apex Court in the decision of the ***Vasant Padave*** is applicable to the present case. The date of death of the landlady is not disputed; however, the tenant claims to have received the knowledge about the death of the landlady only on 16th January 1984. The case of the respondent is that the very fact that the tenant had filed an application for issuing notice to the heir of the landlady on 6th April 1984, it was evident that the tenant was aware of the death of the landlady as of 6th April 1984. Hence, according to the respondent, the tenant was under obligation to submit an intimation of willingness to purchase the land within the prescribed time under section 32F from 6th April 1984. However, according to the respondent mandatory requirement of submitting an intimation in the prescribed form-‘X’ as per Rule 20 of said Rules 1956 was not submitted by the tenant. Hence, the tenant lost his right to purchase the land. To examine the said submissions, it is necessary to refer to the decision of this Court in the case of ***Kashiram Mahipati Bhaskar***. The legal principle laid down in the said decision regarding giving intimation in form-‘X’ to be mandatory is not the question of debate in this case. The question thus to be examined is whether an occasion had arisen for the tenant to submit

the intimation of willingness in prescribed form-‘X’ as mandatorily required under Rule 20 as interpreted by this Court in the decision of the *Kashiram Mahipatil Bhaskar*. Thus, what is required to be considered is whether such an occasion had arisen for the tenant to comply with the mandatory requirement.

24. It is clear from the aforesaid facts and circumstances narrated by both parties that the landlady expired at Belgaum in the State of Karnataka on 26th July 1981. It is also not in dispute that the landlady expired issueless. The respondent i.e. Vasant Brahme, claimed to be successor-in-interest of the landlady. It is further not in dispute that Vithal Brahme made an application on 17th March 1984 for entering his name as successor-in-interest of the landlady. Admittedly, for the first time, his name was entered in the revenue record on 3rd April 1984. Hence, by relying upon the mutation entry no. 1480, dated 3rd April 1984, the tenant filed an application for revival of 32G proceedings and prayed for issuing notice to the heirs and legal representatives of the deceased landlady. Thus, it is evident that the tenant learnt about the death of the landlady only pursuant to the mutation entry no. 1480, dated 3rd April 1984.

25. In view of the aforesaid, it is necessary to refer to the legal principles of law laid down by the Apex Court in the decision of

Vasant Padave. The relevant extract from the decision of **Vasant Padave** read thus:

“45. However, instead of striking down such classification as a whole, what can be done is to strike down the words “... of the fact that he has attained majority ...”, as a result of which, what is added by the 1969 Amendment to Section 32-F(1)(a) now ceases to be discriminatory, as it is applicable to tenants of all three categories of landlords.

49. Respectfully following the law laid down in these judgments, and in order to read Section 32-F(1)(a) in conformity with Article 14, we eliminate the words “... of the fact that he has attained majority ...” so that the intimation that is to be made by the landlord has to be made to tenants of all the three categories of landlords covered by the provision.

50. It now remains to deal with some of the judgments of this Court on the interpretation of Section 32-F. In Anna Bhau Magdum v. Babasaheb Anandrao Desai [Anna Bhau Magdum v. Babasaheb Anandrao Desai, (1995) 5 SCC 243], a minor landlord attained majority in 1965 i.e. before the 1969 Amendment Act came into force. After advertent to the amendments made in 1969, this Court held that for this reason the amendment did not apply to the facts of that case. It was also found, as a matter of fact, that despite knowing that the respondent landlord would attain majority on 17-1-1965, the tenant gave no intimation as required by sub-section (1-A) to Section 32-F even within the amnesty period of two years granted by the said sub-section. The only argument made on behalf of the tenant in that case was that since there is an automatic purchase, the provisions of sub-section (1-A) are directory in nature. This was turned down stating that the consequences of non-compliance of Section 32-F(1-A) are laid down in Section 32-P(1) and that, therefore, the time period contained in sub-section (1-A) of Section 32-F is mandatory in nature. This case is wholly distinguishable on its facts and lays down the law on Section 32-F(1-A) with which we are not immediately concerned.

51 [Ed. : Para 51 corrected vide Official Corrigendum No. F.3/Ed.B.J./129/2019 dated 31-1-2020.]. However, in Appa

Narsappa Magdum v. Akubai Ganapati Nimbalkar [Appa Narsappa Magdum v. Akubai Ganapati Nimbalkar, (1999) 4 SCC 443] , this Court referred to the landlady widow on the facts of that case who had died in 1965, prior to the coming into force of the Amendment Act of 1969. In this factual scenario, since the tenant did not comply with the timeline of one year given to him, the right to purchase of the tenant was stated to have come to an end. The argument that one year should be from the date of knowledge was turned down in the following terms : (SCC pp. 445-46, para 4)

“4. It was submitted by the learned counsel that this being a welfare legislation enacted for the benefit of tenants should be construed in a liberal manner. He also submitted that the heirs of the landlady had not given any intimation to the appellant about her death and therefore he could not have known who were the heirs of the landlady and given intimation to them. He submitted that the period of one year should be counted from the date of the knowledge of the tenant. We cannot accept this submission because the language of Sections 32-F and 31 is quite clear and the period of one year will have to be counted in accordance with the said provisions and not from the date of the knowledge of the tenant. The provision of law being clear, we cannot in such a case grant relief on the basis of equity.”

Since this judgment does not square with the object sought to be achieved by the 1956 Amendment to the 1948 Act or to the declaration of law in this judgment, it does not state the law correctly and is, therefore, overruled.

55. *The questions referred to us are now answered as follows:*

55.1. *The object of the Amendment Act of 1969 is relevant and applicable in deciding the scope of the right to purchase by a tenant of a landlord who was a widow or suffering from mental or physical disability on Tillers' Day.*

55.2. *The successor-in-interest of a widow is obliged to send an intimation to the tenant of cessation of interest of the widow to enable the tenant to exercise his right of purchase.*

55.3. *The decision in Appa Narsappa [Appa Narsappa Magdum v. Akubai Ganapati Nimbalkar, (1999) 4 SCC 443]*

stands overruled. The decision in Sudam Ganpat [Sudam Ganpat Kutwal v. Shevantabai Tukaram Gulumkar, (2006) 7 SCC 200] stands distinguished as stated in para 47 of the judgment. The decision in Tukaram Maruti [Tukaram Maruti Chavan v. Maruti Narayan Chavan, (2008) 9 SCC 358] , to the extent that it follows the law laid down in Appa Narsappa [Appa Narsappa Magdum v. Akubai Ganapati Nimbalkar, (1999) 4 SCC 443] , stands overruled.”

Emphasis applied

26. The facts of the present case are identical to the facts in the case of ***Vasant Padave***. In view of the legal principles settled by the Hon'ble Supreme Court, the question of the tenant exercising his right by intimating willingness to purchase will arise only after the landlord's successor-in-interest has given intimation to the tenant that the disability has come to an end. In the present case, admittedly, there is no such intimation given by the landlady's successor in interest. However, after the knowledge about the death of the landlady and the name of the respondent being entered in the revenue record as successor-in-interest of the landlady, the petitioners filed an application and an affidavit before the ALT showing a willingness to purchase. The ALT has thus allowed the tenant's application for fixing the purchase price. Thus, in view of the settled legal principles, no fault can be found in the ALT's order. SDO rightly dismissed the appeals filed by the respondent. MRT

without disturbing the findings of fact recorded by ALT has reversed the order. The MRT's order is unreasonable and not sustainable in law.

27. Reliance placed by the learned senior counsel for the respondent on the decision in the case of ***Kashiram Bhaskar*** is of no assistance to the arguments of the respondent as the question of manner of intimation of willingness required to be given by the tenant would arise only after intimation by the landlord is given as contemplated under section 32F read with Section 31.

28. I do not find any substance in the argument of the respondent that the law laid down in the case of ***Vasant Padave*** would have only a prospective effect. The Hon'ble Supreme Court has struck down the words from Section 32F on the ground of being violative of Article 14 of the Constitution of India. Thus, in view of Article 13 of the Constitution of India what is struck down is void and therefore never existed on the statute book. Thus, it was always nullity being violative of Article 14 of the Constitution of India. Therefore, it will apply to all the cases. The Hon'ble Supreme Court does not say that it will apply prospectively. Therefore, the present case is squarely covered by the law declared in the decision of ***Vasant Padave***. Thus, the decisions relied upon by the learned senior counsel for

the respondent on the doctrine of prospective overruling would not apply to the present case.

29. Thus, the impugned order passed by MRT is not sustainable in law. The petitioners right is not taken away for non-compliance of intimation of willingness under Section 32F(1A) for want of intimation by the landlady's successor-in-interest, about the disability coming to an end in view of death of the landlady.

30. Hence, for reasons recorded above the petition is allowed by passing the following order:

- (i) The judgement and order dated 19th December 1996 passed by MAT in Revision No. 111 of 1988 is quashed and set aside, and the Revision No. 111 of 1988 is dismissed.
- (ii) The Order dated 18th May 1984 passed by ALT fixing purchase price under Section 32G of the Tenancy Act in favour of the petitioners and the certificate under Section 32M of the Tenancy Act is confirmed.

31. Writ petition is allowed in the above terms.

(GAURI GODSE, J.)

31. At this stage learned senior counsel appearing for the respondent seeks stay on the operation of the order, to enable the respondent to approach the Hon'ble Apex Court. The effect and implementation of this order is stayed for a period of eight weeks from today.

(GAURI GODSE, J.)