

AGK

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

WRIT PETITION NO.3624 OF 2018

ATUL
GANESH
KULKARNI

Digitally signed by
ATUL GANESH
KULKARNI
Date: 2024.04.30
10:23:29 +0530

*Subhash Waman Gaware,
since deceased through LRs & Ors. ... Petitioners*

V/s.

Subhash Shrikrishna Karandikar & Ors. ... Respondents

WITH

WRIT PETITION NO.4910 OF 2024

*Shrikrishna Sadashiv Karandikar,
(deceased) through LRs Subhash
Shrihrishna Karandikar & Anr. ... Petitioners*

V/s.

*Subhash Waman Gaware,
since deceased through LRs & Ors. ... Respondents*

Mr. Prathamesh B. Bhargude with Mr. Sharad R. Dhore
& Mr. Sumit Sonane for the petitioner in
WP/3624/2018 & for respondent No.1 in
WP/4910/2024.

Mr. Sugandh Deshmukh for the petitioner in
WP/4910/2024 & for respondent No.1 in
WP/3624/2018.

Mrs. V.S. Nimbalkar, AGP for respondent/State in both
the matters.

CORAM : AMIT BORKAR, J.

DATED : APRIL 2, 2024

P.C.:

1. The challenge in both these writ petitions is to the order
passed by the Maharashtra Revenue Tribunal ("MRT" for short)

remanding revision application back to the ALT, Baramati to decide the matter afresh by granting both sides opportunity of hearing.

2. Writ Petition No.3624 of 2018 challenges that part of the order by which the MRT has remanded the proceedings back. The petitioner in this writ petition is not challenging the findings recorded in favour of the petitioner. The petitioner in Writ Petition No.4910 of 2024 is challenging the findings recorded by the MRT in favour of the petitioner in Writ Petition No.3624 of 2018.

3. Both the writ petitions arise out of original proceedings filed under Section 29 by the landlord on two grounds: one, default in payment of rent; and second, damage to the property. After two rounds of litigation, the present writ petitions arise out of third round of litigation.

4. On perusal of the impugned order, it appears that the MRT has discussed service of notice of termination of the tenancy. On perusal of the reasons assigned by the MRT, it appears that necessary material and evidence to adjudicate upon right of the landlord under Section 29(1) of the Bombay Tenancy and Agricultural Lands Act, 1948 is already in existence. Moreover, it is well settled principle of law that proceedings cannot be remanded to fill up lacuna. Therefore, it was duty of the MRT to consider the revision application based on material available on record, draw its inference based on material and record necessary findings for passing operative part of the order.

5. The impugned order, therefore, cannot be sustained. Proceedings are remanded back to the MRT to decide the same

afresh.

6. The MRT shall grant opportunity of oral hearing to both sides and shall pass appropriate order on merits in accordance with law within a period of four months from the date of appearance of the parties.

7. Parties shall appear before the MRT on 8 April 2024 at 10.30 a.m.

8. Both the writ petitions stand disposed of in above terms. No costs.

9. *In view of disposal of the writ petitions, all pending interlocutory applications stand disposed of.*

(AMIT BORKAR, J.)

Note: This order is modified as per order dated 29 April 2024 to correct cause-title & insert paragraph 9.