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

WRIT PETITION NO.1316 OF 1998

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Anna Allo Waghchoude
Since Deceased Through
His Legal Heirs

... Petitioner

V/s.

Shankar Laxman Khot & Ors.

... Respondents

Mr. S. M. Railkar for the petitioner.

Mr. Prajakt M. Arjunwadkar for the respondents.

CORAM : AMIT BORKAR, J.

DATED : APRIL 5, 2024

PC.:

1. The petitioner is challenging order dated 14 July 1997 passed by the Maharashtra Revenue Tribunal in Revision Application No.131 of 1990 confirming orders passed by the authorities below arising out of proceedings under section 32G of Bombay Tenancy and Agricultural Lands Act, 1948 (hereafter, "BTAL Act", for short) holding respondent No.4 as tenant in Survey No.171.

2. The facts and circumstances giving rise to present writ petition are as under:

3. The petitioner claim to be tenant. On 4 January 1973, the Additional Tehsildar and A.L.T., Murbad initiated suo moto inquiry

under section 32G of the BTAL Act and the Agricultural Lands Act, 1948. He declared respondent No.1 to be tenant over Survey No.171 at village Khandape.

4. The petitioner challenged the order of A.L.T. by filing Appeal No.39 of 1989 before the Sub-Divisional Officer, Thane Division, Thane. The Sub-Divisional Officer dismissed the petitioner's appeal on two grounds:

(i) The impugned order was passed on 4 January 1973; however, the appeal was filed in the year 1989 and, thereafter, delay of more than 10 years cannot be condoned.

(ii) The predecessor of the petitioner made a statement before the A.L.T. giving his no objection for declaration of respondent No.4 as tenant and for issuance of certificate in favour of respondent No.4.

5. Based on aforesaid two reasons, the Sub-Divisional Officer dismissed the appeal.

6. Aggrieved by order passed by the Sub-Divisional Officer dated 23 August 1990 the petitioner filed revision before the Maharashtra Revenue Tribunal. The Maharashtra Revenue Tribunal, by order dated 14 July 1997, dismissed the revision. Hence, the petitioner has filed present writ petition.

7. Learned advocate for the petitioner submitted that the petitioner had explained delay in filing the appeal by stating that he had no knowledge of passing of order. Learned advocate for the petitioner submitted that in absence of opportunity of hearing

given to the predecessor of the petitioner, proceedings under section 32G could not have been decided in favour of respondent No.4 as predecessor of the petitioner was tenant in the property in dispute. He submitted that the petitioner had material on record to show that on 14 July 1997 predecessor of the petitioner was tenant over the land.

8. Learned advocate for respondent No.4 placed on record the statement of predecessor of the petitioner stating that name of predecessor of respondent No.4 be added as tenant in relation to Survey No.171 as name of predecessor of the petitioner was wrongly entered. It is also stated that the property in dispute was cultivated by predecessor of respondent No.4.

9. I have considered the submissions on behalf of both the sides. On perusal of the statement dated 26 September 1972, recorded before the first authority whereby predecessor-in-title Shankar Laxman Khot stated that the entry in revenue record regarding his name was incorrect and predecessor of respondent No.4 was cultivating the land. Hence, he had no objection for deleting his name and recording name of respondent No.4 as tenant. Based on the said statement, the Additional Tehsildar and the A.L.T., Murbad by order dated 26 September 1972 directed removal of name of predecessor-in-title of the petitioner and entry of predecessor of respondent No.4 was directed to be made. Once the predecessor of the petitioner made a statement before the authority under the provisions of the BTAL Act and the Agricultural Lands Tribunal accepting the fact that predecessor of respondent No.4 was tenant over the property in dispute, the authorities under

the Act were justified in passing order under section 32G of the BTAL Act in favour of respondent No.4. Therefore, in my opinion, there is no legal infirmity in the orders passed by the authorities below.

10. The writ petition is, therefore, dismissed. No costs.

11. Rule stands discharged.

(AMIT BORKAR, J.)