

Nikita

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

WRIT PETITION NO.6216 OF 1996

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Balu Sawala Mohite @ Shingmode and
Ors.

... Petitioners

V/s.

Bajrang Dhondi Daphale and Ors.

... Respondents

Mr. Ramchandra N. Kachave, for the Petitioner.

Mr. Milind Deshmukh, for Respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : APRIL 5, 2024

P.C.:

1. The petitioners are challenging application and order passed by Maharashtra Revenue Tribunal dated 13th November 1996 allowing revision filed by respondents setting aside orders passed under Section 32-G of the Bombay Tenancy and Agricultural Lands Act, 1948 (“the Act” for short) by Tahsildar and Sub-divisional Officer mainly on the ground that in the proceedings initiated in the year 1964 under the provisions of 32-G of the Act. It was held that there was no relationship of landlord and tenant between the landlady and the predecessor of the petitioners. The facts giving rise to the present writ petition are as under:

2. The predecessor of petitioners Pandurang Mohite, on 13th October 1985 under Section 32-G of the Act shown his willingness

to purchase the land in question. According to him, he was tenant on Tiller's day, i.e. 1st April 1957 and, therefore, the proceedings for purchase were postponed. The landlady died on 2nd October 1985. Therefore, the predecessor of petitioners applied for purchase of land as no notice of her death was issued to the tenant nor the notice of termination of tenancy was issued.

3. The Additional Tahsildar by order dated 15th September 1987 declared predecessor of the petitioners as the tenant and issued a direction for issuance of certificate under Section 32-M of the Act.

4. The respondents challenged the order of Tahsildar before the Sub-divisional Officer. The Sub-divisional Officer in Appeal No.56 of 1987 confirmed the decision of Tahsildar by order dated 18th January 1988.

5. The respondent No.1, challenged the order of Sub-divisional Officer by filing revision before the Maharashtra Revenue Tribunal. The Revenue Tribunal based on communication dated 19th February 1977 issued by Tahsildar to respondent No.1 indicating that in a proceeding in Case No.167 decided on 4th December 1964, held that there was no relationship between landlady Bakulabai Daphale and Tenant Pandurang Mohite. Based on this document the Revenue Tribunal recorded a finding that in absence of relationship of landlord and tenant, purchase price under Section 32-G of the Act could not have been fixed and, therefore, the Revenue Tribunal set aside the orders passed by Agricultural Land Tribunal (A.L.T.) and Sub-divisional Officer. The petitioners

have, therefore challenged the order of Tribunal by present writ petition.

6. Learned counsel for the petitioners submitted that no notice of proceeding of 1964 was issued either to the petitioners or their predecessor in title. They are unaware of such decision. According to him, no proceedings were taken place in the year 1964.

7. Per contra, learned counsel for the respondent No.1 invited my attention to the communication dated 19th February 1977 which contains a recital that in a proceedings under Section 32-G in Case No.167 decided on 4th December 1964. It was held that there was no relationship between landlady Bakulabai Daphale and predecessor of the petitioners.

8. On perusal of the record, it appears that the communication dated 19th February 1977 refers to Survey No.30/1 indicating that Bakulabai Daphale was landlady and predecessor of petitioners was tenant. It also contains a recital that in proceedings under Section 32-G bearing Case No.167 decided on 4th December 1964. It was communicated that there was no relationship of landlord and tenant i.e. between Bakulabai Daphale and predecessor of the petitioners. Therefore, there was no question of purchase of land in the name of tenant.

9. In absence of any other material on behalf of the petitioners to indicate that such proceedings was not in existence. The communication issued by Competent Authority in the year 1977 i.e. 7 years before the initiation of proceedings under Section 32-G of the Act has rightly been relied upon by the Revenue Tribunal.

10. Therefore, in my opinion, once it is established that in the earlier round of litigation proceedings under Section 32-G of the Act resulted in adjudication of status of landlord and tenant declaring absence of relationship of landlord and tenant, fresh proceedings under Section 32-G of the Act could not have been initiated. Hence, the impugned order does not suffers from any legal infirmity.

11. The writ petition is dismissed. No costs.

12. Rule stands discharged.

(AMIT BORKAR, J.)