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

**WRIT PETITION NO.8641 OF 2022
WITH
INTERIM APPLICATION NO.114 OF 2019**

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Subhash Digambar Purandare & Ors. ... Petitioners

V/s.

Dnyandeo Haribhau Badade & Ors. ... Respondents

Mr. Shekhar Jagtap with Mr. Venkatesh Shinde i/by J.
Shekhar & Co., for the petitioners/applicants.

Mr. Nikhil Wadikar i/by Mr. Nandu Pawar for
respondent No.1.

Mr. S.D. Rayrikar, AGP for respondent No.15/State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 26, 2024

PC.:

1. The challenge in this writ petition is to the order dated 24 January 2019 passed by the Maharashtra Revenue Tribunal, Pune in Revision Application No.1 of 2017 thereby confirming order of rejection of application under Section 32P filed by the petitioners/landlords for possession of the agricultural lands from respondent No.1/tenant.

2. The petitioners filed an application under Section 32P (1) of the Maharashtra Tenancy and Agricultural Lands Act, 1948 ("the said Act" for short) seeking delivery of possession of the lands in

dispute from the respondents. According to the petitioners, the lands in question were owned by Krishnaji Waman Purandare who died on 16 January 1957. During his lifetime, he effected partition of the suit lands. On 1 April 1957 the petitioners were owners of the suit lands. The respondents were tenants on 1 April 1957 and became deemed purchasers under Section 32G of the said Act. However, since the landlords were minor, tenants could not purchase the properties in dispute. According to the petitioners, opponents were aware that the landlords became major. However, despite attaining majority, they did not issue an intimation expressing their intention to purchase suit lands and, therefore, they have lost their rights to purchase the property.

3. The Tehsildar allowed the application by recording a finding that the respondent/tenant failed to issue notice within one year from the date landlord became major. The Sub-Divisional Officer confirmed the order. The Maharashtra Revenue Tribunal by the impugned order allowed respondents' Revision Application holding that the respondents are entitled to purchase the properties in dispute under Section 32G of the said Act. The petitioners, therefore, filed present writ petition.

4. Learned advocate for the petitioners submitted that in absence of intimation by the respondent/tenant showing willingness to purchase the lands in question, their right to purchase the lands under Section 32G stands extinguished and, therefore, application under Section 32P of the said Act ought to have been allowed by the Authorities below.

5. For the purpose of adjudicating the issue involved, it is necessary to set out undisputed facts:(i) the predecessor of the respondents were tenant on 1 April 1957; (ii) on 1 April 1957, some of the petitioners were minor; and (iii) no notice had been issued by the landlord calling upon the tenant to purchase the lands.

6. For the purpose of adjudicating the issue, it is necessary to set out Sections 32P and 32F of the said Act, which read thus:

“32F. Right of tenant to purchase where landlord is minor, etc.

(1) Notwithstanding anything contained in the preceding sections,—

(a) where the landlord is a minor, or a widow, or a person subject to any mental or physical disability, the tenant shall have the right to purchase such land under section 32 within one year from the expiry of the period during which such landlord is entitled to terminate the tenancy under section 31 and for enabling the tenant to exercise the right of purchase, the landlord shall send an intimation to the tenant of the fact that he has attained majority, before the expiry of the period during which such landlord is entitled to terminate the tenancy under section 31:

Provided that where a person of such category is a member of a joint family, the provisions of this sub-section shall not apply if at least one member of the joint family is outside the categories mentioned in this sub-section unless before the 31st day of March 1958 the share of such person in the joint family has been separated by metes and bounds and the Mamlatdar on inquiry is satisfied that the share of such person in the land is separated, having regard to the area, assessment, classification and value of the land, in the

same proportion as the share of that person in the entire joint family property and not in a larger proportion.

32P. Power of Tribunal to resume and dispose of land not purchased by tenant.

(1) Where the purchase of any land by tenant under section 32 becomes ineffective under section 32G or 32M or where a tenant fails to exercise the right to purchase the land held by him within the specified period under section 32F, 32-O, 33-C or 43-ID, the Tribunal may suo motu or on an application made on this behalf [and in cases other than those in which the purchase has become ineffective by reasons of section 32G or 32M, after holding a formal inquiry] direct that the land shall be disposed of in the manner provided in sub-section (2).”

7. On perusal of the scheme of Sections 32F, 32G and 32P of the said Act, it is necessary that even in case of landlord being minor on the Tillers’ day, the landlord need to issue notice to the tenant calling upon tenant to purchase the lands. It is only in case the tenant fails to purchase the lands in question within one year from the date of receipt of notice issued by the landlord, the right of tenant to purchase land under Section 32G of the said Act stands extinguished. The law in this regard has been explained by the Apex Court in **Vasant Ganpat Padave (Dead) by LRs & Ors v. Anant Mahadev Sawant (Dead) through LRs & Ors.** reported in (2019) 19 SCC 577. The Apex Court held in the context of provisions of Section 32F (1A) restricting its application only in case of minors. The Apex Court held that it would be wholly anomalous for the tenant that his landlord happens to be minor who has attained majority, he must first be intimated of this fact before he can meaningfully exercise his right of purchase,

whereas a tenant who is similarly situated like a widow, no intimation need to be made. Considering the object of 1956 amendment which is agrarian reform legislation, the Apex Court held that there must be intimation to the tenant of cessation of interest by the widow or minor so that the tenant can exercise right of purchase. In paragraph 17, the Apex Court held thus:

“17. ... It is only in three cases that such purchase becomes ineffective — if the tenant fails to appear within the time prescribed after notice is given to him, or appears and declines purchase, or if the tenant fails to pay the entire purchase price. The widow, the minor and the person subject to a disability are placed on the same pedestal, and throughout their widowhood, minority or period of disability are deemed to cultivate the land personally through their tenants — Explanation I to Section 2(6) makes this clear.”

8. In the facts of the case, it is undisputed that the landlord failed to issue notice to the tenant after attaining majority and, therefore, period of one year which enables the tenant to exercise his right of purchase under Section 32-G did not start. It is only after expiry of such period of one year, the right of tenant to purchase land under Section 32G gets extinguished.

9. In absence of extinguishment of the respondents’ tenancy right, they are entitled to purchase the land under Section 32G of the Act as undisputedly his predecessor in title were tenant on the Tillers’ day. Hence, the view adopted by the Maharashtra Revenue Tribunal does not from legal infirmity.

10. The writ petition stands dismissed. No costs.

11. All pending interlocutory application/s stand disposed of as infructuous. No costs.

(AMIT BORKAR, J.)