

*Shabnoor*

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

**WRIT PETITION NO.14453 OF 2023**

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Babaji Dattu Gawada & Ors, ... Petitioners

**V/s.**

Shankar Hanmant Birje (Deceased)  
Through Legal Heirs & Ors. ... Respondents

Mr. Niranjan Bhavake a/w Drishti Madhani, a/w  
Anurag Ramekav a/w Swamini Thakur for petitioner.

**CORAM : AMIT BORKAR, J.**

**DATED : JANUARY 29, 2025**

**P.C.:**

1. Challenge in this petition under Article 227 of the Constitution of India, which vests this Court with the supervisory jurisdiction to ensure that subordinate tribunals and authorities exercise their powers within the bounds of law, is to the order dated 9 September 2019 passed by the Maharashtra Revenue Tribunal, Pune (MRT) in Tenancy Revision Application No. KP/174 of 2003. The impugned order confirmed the concurrent findings of the authorities under the Maharashtra Tenancy and Agricultural Lands Act, 1948 ("the Act"), which permitted the tenant to proceed under Section 32G of the Act for the purchase of agricultural land. The gravamen of the challenge lies in the alleged failure of the MRT to adjudicate upon a material issue central to the statutory inquiry under Section 32G, thereby rendering its

order legally unsustainable.

2. The limited grievance raised on behalf of the petitioners is that the tenant, in respect of land bearing Survey No. 103/2, Gat No. 294 A, was admittedly in possession of 14R of land as per the revenue records. However, while adjudicating the proceedings under Section 32G of the Act, the Agricultural Lands Tribunal (ALT) erroneously declared the tenant to be the purchaser of only 0.32R of land, disregarding the petitioner's consistent plea regarding the actual extent of possession. This discrepancy, it is contended, stems from a non-application of mind to the evidence on record, including the tenant's own admissions and the revenue entries, which are presumptive proof of possession under Section 32M of the Act.

3. The learned Advocate for the petitioners strenuously urged that a specific ground (ground 'g') was raised before both the appellate and revisional authorities, flagging the absence of any inquiry into the tenant's possession over 14R of land. Reliance was placed on the statutory mandate under Section 32G, which requires the ALT to determine the price of the land "which the tenant is entitled to purchase" based on the area lawfully cultivated by him. It was argued that the authorities fell into error by mechanically adopting the measurement in the tenant's application without scrutinizing the patta, cultivation records, or conducting a spot inspection, as envisaged under Rule 15 of the Maharashtra Tenancy and Agricultural Lands Rules, 1956. The failure to discharge this statutory duty, it was submitted, vitiates the determination under Section 32G as a nullity in the eyes of

law.

4. Despite service of notice, respondent Nos. 1A to 1E have chosen to remain absent. In light of their non-appearance, this Court proceeds to adjudicate the petition ex parte, mindful of the principles enshrined in **Sangram Singh v. Election Tribunal, Kotah (AIR 1955 SC 425)**, which permit a court to decide matters in the interest of justice when a party wilfully abstains from participation.

5. On a perusal of the record, this Court finds merit in the petitioner's contention that the revisional authority failed to discharge its duty under Section 76 of the Act, which obligates the MRT to re-examine both questions of law and fact in disputes arising from tenancy proceedings. Ground 'g' in the revision application explicitly assailed the ALT's omission to verify the extent of the tenant's possession. The MRT, however, glossed over this contention, thereby committing a jurisdictional error.

6. Furthermore, the statutory scheme of Section 32G leaves no ambiguity that the declaration of purchase must correlate strictly with the tenant's lawful possession. The authorities' omission to conduct a proper inquiry into the actual area cultivated by the tenant renders their orders perverse. In such circumstances, remanding the matter for fresh adjudication is not only appropriate but necessary to uphold the rule of law.

7. Hence, the following order is passed:

(i) The judgment and order dated 9 September 2019 passed by the Maharashtra Revenue Tribunal, Pune, in Tenancy Revision Application No. KP/174 of 2003, is quashed and set aside for non-

compliance with the mandatory procedure under Section 32G of the Act and for failing to adjudicate a vital factual controversy.

(ii) Tenancy Revision Application No. KP/174 of 2003 is restored to the file of the Maharashtra Revenue Tribunal, Pune, with a direction to re-examine the issue of the tenant's lawful possession over the subject land after affording the parties a reasonable opportunity to adduce oral and documentary evidence, including, if necessary, a fresh commission for measurement of the land.

(iii) The Maharashtra Revenue Tribunal shall conclude the proceedings expeditiously, preferably within six (6) months from the date of production of this order, keeping in view the urgency inherent in tenancy matters impacting livelihood and property rights.

8. The writ petition stands disposed of in the aforesaid terms. In the peculiar facts and circumstances, there shall be no order as to costs.

**(AMIT BORKAR, J.)**