

VRJ

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

WRIT PETITION NO.6588 OF 2022

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Shankar Sakharam Patil & Anr.

... Petitioners

V/s.

Mahadeo Balwant Sutar

Deceased Through His Legal

Representative Sampat Mahadeo Sutar

& Anr.

... Respondents

Mr. Satyajee A. Rajeshirke for the petitioners.

Mr. Mahendra Agvekar for respondent No.1.

Ms. V. S. Nimbalkar, AGP for the State-respondent
No.2.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 23, 2025

P.C.:

1. Challenge in this writ petition is to the order passed by the Maharashtra Revenue Tribunal dismissing the petitioners' revision filed under Section 76 of the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as "*BTAL Act, 1948*").

2. Survey No.109/2, subsequently re-numbered as Gat No.491, is the subject matter of the writ petition. The petitioners' father became a *deemed purchaser* of the land under the provisions of Section 32G of the BTAL Act, 1948, as he was cultivating the land since prior to the "tillers' day" declared under the Act. The proceedings under Section 32G were initiated in accordance with the scheme of the BTAL Act, 1948 culminating in the issuance of a

certificate of purchase under Section 32M on 7 July 1964. This certificate, which was duly registered, conferred upon the petitioners' father all rights, title, and interest in the said land. The mutation entry dated 21 January 1964 reflecting the issuance of the certificate further substantiates the deemed purchase and the vested rights of the petitioners' father under the BTAL Act, 1948.

3. On 2 July 1965, one co-owner out of five filed an application for recovery of possession of the property in dispute under Section 29 of the BTAL Act, 1948. The application was initially dismissed, and the findings of the competent authority underscored the absence of any breach of the provisions of the BTAL Act by the petitioners' father. However, after a round of litigation culminating in remand, the Tenancy Awal Karkun, Karveer, by order dated 5 June 1981, allowed the respondents' application and directed the petitioners' father to hand over the property in dispute to respondent No.1.

4. On 25 February 1986, the Sub-Divisional Officer, Karveer, partly allowed the appeal filed by the respondents and directed the petitioners to hand over 31 Gunthas, including 4 Gunthas classified as Potkharab, to respondent No.1. The said order was challenged before the Maharashtra Revenue Tribunal on the ground that it failed to appreciate the protective rights conferred on tenants under Sections 32G and 32M of the BTAL Act, 1948 and erroneously assumed jurisdiction to alter the status of the deemed purchaser.

5. Learned advocate for the petitioners, relying on the

certificate issued under Section 32M of the BTAL Act, 1948, submitted that the certificate, which serves as conclusive proof of purchase by the tenant, was supported by mutation entries duly recorded in the revenue records and placed before the tenancy authorities. It was argued that the issuance of such a certificate is binding and establishes the tenant as the deemed purchaser under the BTAL Act. However, the tenancy authorities directed the petitioners to hand over possession of the property in dispute, ignoring the statutory presumption of ownership arising from the 32M certificate. The petitioners contend that failure to produce the original 32M certificate before the authority under the Tenancy Act should not vitiate the proceedings, as secondary evidence in the form of mutation entries and related records was duly submitted, which ought to have been considered in light of the legislative intent behind Sections 32G and 32M of the BTAL Act, 1948.

6. Since the landlord, more particularly respondent No.1 or his predecessor, was a party to the proceedings under Sections 32G and 32M of the BTAL Act, 1948, it was incumbent upon the applicants and the respondents to produce the certificate issued under Section 32M before the tenancy authorities. Such a certificate, being conclusive proof under the BTAL Act, 1948 establishes the tenant's title to the land as a deemed purchaser. The failure to produce this document during the inquiry rendered the proceedings legally deficient. The certificate issued under Section 32M has a binding effect, and any order ignoring such a certificate suffers from material illegality and procedural infirmity. In this context, the inquiry suffers from a material defect, as the

conclusiveness of the certificate under Section 32M was neither considered nor given due weight.

7. Hence, the petitioners are permitted to produce the certificate issued under Section 32M of the BTAL Act, 1948, dated 7 July 1964, before the Tenancy Awal Karkun, Karveer. The authority is directed to consider the effect of the issuance of the certificate under Section 32M, which constitutes conclusive proof of title in favor of the tenant who is a deemed purchaser. The authority shall pass a reasoned order on merits, in accordance with the law, after affording both parties a reasonable opportunity to present their case.

8. The parties are directed to appear before the Tenancy Awal Karkun, Karveer, on 3 February 2025, at 10:30 a.m. The Tenancy Awal Karkun, Karveer, shall conduct the proceedings afresh and decide the matter in light of the additional evidence produced, particularly the certificate under Section 32M, within a period of six months from the first date of appearance. The proceedings shall be conducted expeditiously and in accordance with the principles of natural justice.

9. The writ petition stands disposed of in the above terms. The Tenancy Awal Karkun, Karveer, shall ensure strict compliance with the directions issued herein and proceed in accordance with the provisions of the BTAL Act. No order as to costs.

10. All contentions of the parties are kept open to be agitated before the Tenancy Awal Karkun, Karveer.

(AMIT BORKAR, J.)