

2. The facts giving rise to the present Petition, briefly stated, are that the Petitioners are owners in respect of land bearing Gat No.83, admeasuring 6H 41R out of 8H 95R, situated at village Vesarde, Taluka Bhudargad, District Kolhapur. The Petitioners claim ownership by virtue of the land being part of a Gaon Sanadi Inam Vatan, conferred upon their predecessor in title in or around the year 1924. It is the case of the Petitioners that such a Vatan land, being of an inalienable nature, could not have been subjected to tenancy rights under ordinary circumstances.

3. Sometime in or around the year 1999, Respondent No.1 filed an application under Section 32(O) of the said Act before the Tahsildar & Agricultural Land Tribunal ("ALT"), Bhudargad, alleging that an agreement of lease had come into existence on 1st May 1998. He further contended that the Petitioners, being the landlords, had accepted rent in the sum of Rs.750/- per year, thereby creating a landlord-tenant relationship. On this foundation, Respondent No.1 prayed for an inquiry under Section 32(G) read with Section 32(O) of the said Act, seeking to declare him a deemed purchaser and to obtain a certificate under Section 32(M) of the said Act. By order dated 22nd September 2000, the learned ALT allowed the application and proceeded to issue a certificate under Section 32(M) in favour of Respondent No.1.

4. Aggrieved by the order of the ALT, the Assistant Collector, Radhanagari, initiated proceedings in Suo Motu Revision Application No.SR 06 of 2001, invoking his revisional powers

under the Maharashtra Tenancy & Agricultural Lands Act, 1948. By an order dated 22nd April 2000 (referred to in subsequent proceedings, though the exact date of the Assistant Collector's order appears to be part of the record), the Assistant Collector set aside the ALT's order of 22nd September 2000. The Assistant Collector recorded, inter alia, that the land in question, being Gaon Sanadi Vatan land, is inalienable by its very nature and that no valid relationship of landlord and tenant could arise between the Petitioners and Respondent No.1. Against this order of the Assistant Collector, Respondent No.1 carried the matter to the Maharashtra Revenue Tribunal in Revision, and by the impugned judgment, the MRT allowed his Revision, thereby restoring the ALT's order. This has occasioned the present Petition under Article 227.

5. On behalf of the Petitioners, learned counsel has assailed the MRT's order on both factual and legal grounds. It is submitted that the purported lease agreement of 1st May 1998 is nothing but a contrivance to create a false basis for tenancy. Relying on the Petitioners' pleadings, he submits that the application under Section 32(O) of the said Act was not filed within the statutory period of one year from the creation of the alleged tenancy. According to him, the notice under Rule 20 of the Maharashtra Tenancy & Agricultural Lands (Bombay Tenancy Rules) was said to have been issued only on 25th October 1999, and the statement of the predecessor in title of the Petitioners was recorded on 22nd September 2000. In any event, contends the learned counsel, even if one were to assume

a valid lease from May 1998, the application under Section 32(O) filed as late as 25th October 1999 stood beyond the period contemplated by law. Hence, the Assistant Collector was wholly justified in setting aside the ALT's order under Section 32(G).

6. Per contra, learned advocate for Respondent No.1 supports the MRT's order, arguing that there was a bona fide dispute regarding the existence of a landlord-tenant relationship. He submits that the period of limitation under Section 32(O) is to be reckoned only once the dispute is resolved or settled, or at least until the landlord acknowledges the tenant's status. According to him, it was only upon the statement of the Petitioners' predecessor in title being recorded on 22nd April 2000, wherein he is alleged to have admitted Respondent No.1's status as a tenant, that the clock for limitation truly commenced. The learned advocate fortifies his submissions by relying upon the judgments of this Court in (i) *Laxman Dhondi Zurale (since deceased by his L.Rs. Prakash Laxman Zurale and others) Vs. Yashodabai Sripatrao Shinde* [2005(1) Mh.L.J. 506], and (ii) *Jagannath Vithu Jadhav (since deceased) through L.Rs. Smt. Shalan Jagannath Jadhav and others Vs. The State of Maharashtra and others* [2013(2) Mh.L.J. 285], to contend that when there is a dispute as to the very existence of a tenancy, time does not run until the dispute is resolved, thereby validating the application under Section 32(O).

7. Rival contentions fall for consideration. On a meticulous perusal of the record, it emerges that the ALT issued a certificate in favour of Respondent No.1, predicated on the finding that the tenancy commenced pursuant to an agreement dated 1st May 1998, with a yearly rent of Rs.750/-. In proceeding to grant the certificate, the ALT reasoned that Respondent No.1 had exercised his right under Section 32(O) of the Maharashtra Tenancy & Agricultural Lands Act, 1948 ("the said Act") by issuing a letter dated 25th October 1999. The documents on record, including the application under Section 32(O), demonstrate that Respondent No.1's own assertion points unequivocally to the commencement of tenancy on 1st May 1998. As a corollary, his communication exercising rights under Section 32(O), which is dated 25th October 1999, is evidently beyond the period of one year from the inception of tenancy, as stipulated under the proviso to Section 32(O).

8. Tested on this anvil, the commencement date of 1st May 1998, as alleged by Respondent No.1 himself, must be construed as the starting point for reckoning limitation. The issuance of intimation on 25th October 1999, more than one year after the asserted creation of tenancy, prima facie leads to the inference that the application under Section 32(O) is time-barred.

9. Insofar as the judgments in the cases of *Laxman Dhondi Zurale (supra)* and *Jagannath Vithu Jadhav (supra)* are concerned, it is indeed the settled principle laid down therein that where there is a bona fide dispute as to the tenant's very status, the one-year period to send intimation under Section

32(O) does not commence until the dispute is finally adjudicated, or until the landlord's denial of tenancy is conclusively overruled. This legal position draws sustenance from the broader principle that a tenant cannot be expected to exercise his right when the landlord's denial of tenancy is under scrutiny before competent forums.

10. However, in the present factual matrix, the record does not disclose any material to show that the Petitioners (or their predecessor) had ever denied Respondent No.1's rights as a tenant immediately upon, or soon after, the alleged creation of tenancy on 1st May 1998. The burden lies on Respondent No.1 to demonstrate a clear dispute raised by the landlord that prevented him from invoking Section 32(O) in a timely manner. Nothing is placed on record to establish that the landlord's acceptance of, or refusal to acknowledge, Respondent No.1's tenancy was in question during the interim period.

11. Furthermore, from the statement of the landlord recorded by the ALT on 22nd September 2000, it appears that there was no serious contest to the tenant's status at that juncture; in fact, the landlord had accepted Respondent No.1 as tenant. Thus, unlike *Laxman Dhondi Zurale* and *Jagannath Vithu Jadhav*, here there was no material to show a protracted denial or litigation regarding the existence of tenancy, the resolution of which would alone trigger the one-year period. Consequently, those precedents, which deal with the scenario of "disputed tenancy" and its resolution, are distinguishable on facts.

12. The principle enunciated in *Laxman Dhondi Zurale*—that the clock of limitation under Section 32(O) commences only upon either the landlord's acceptance or final adjudication—must be read in context. In the present case, no factual foundation or prior adjudication suggests that the landlord consistently repudiated the tenancy so as to toll the statutory period. To the contrary, Respondent No.1's case rests on a straightforward assertion of tenancy from 1st May 1998, and the subsequent communication on 25th October 1999, well beyond one year, without the landlord having, at any intervening point, vehemently denied the tenancy.

13. In my considered opinion, therefore, the learned Member of the MRT was not justified in interfering with the reasoned findings of the Assistant Collector. The Assistant Collector had rightly concluded that the application under Section 32(O) was barred by limitation, there being no dispute regarding the tenant's status that would have suspended or extended the period in question. Consequently, the impugned order, dated 8th July 2020, passed by the learned Member, Maharashtra Revenue Tribunal, cannot be sustained in law.

14. In the result, the Writ Petition is allowed. The impugned judgment and order, dated 8th July 2020, in Revision Application No.KP/161/B/2001 stands quashed and set aside. The Petition is made absolute in terms of prayer clause (A), which reads as follows:

“(A) That this Honourable Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, direction, or order under Articles 226 and 227 of the Constitution of India, 1950, quashing and setting aside the judgment and order passed by the learned Member of the Maharashtra Revenue Tribunal, Camp Kolhapur, in Revision Application No.KP/161/B/2001 dated 08.07.2020.”

15. At this stage, learned Advocate for Respondent No.1 seeks a stay of the operation of this order. Having regard to the considerations delineated hereinabove, it would be appropriate in the interests of justice to grant a limited stay for a period of six weeks from today. Accordingly, the impugned order shall stand stayed for a period of six weeks, and no further orders or mutation entries shall be effected during this period.

(AMIT BORKAR, J.)

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