

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.11602 OF 2025**

Jijabai Dinkar Jadhav,

Since deceased through her legal heirs,

1. Narmada Dnyanu Thorat,
Since deceased through her
legal heirs,
 - 1a. Dnyandev Vishnu Thorat,
Since deceased through his legal
heirs, Petitioner Nos. (b) & (c),
 - 1b. Arun Dnyandev Thorat,
Age: 51 years, Occu.: Agriculturist,
R/at: village Ond, Taluka Karad,
District Satara, PIN 415 111.
 - 1c. Rani Kishor Thorat,
Age: 35 years, Occu.: Household,
R/at: village Ond, Taluka Karad,
District Satara, PIN 415 111.
2. Sunanda Ashok Patil,
Age: 75 years, Occu.: Household,
R/at village Sawade, Taluka Karad,
District Satara, PIN 415 111.
3. Balutai Sampat Thorat,
Age: 78 years, Occu.: Household,
R/at village Sawade, Taluka Karad,
District Satara, PIN 415 111.

..Petitioners.

Versus

Haribhau Rangnath Kulkarni,

Since deceased through his legal heirs,

1. Padmaja Haribhau Kulkarni,
Age: 89 years, Occu.: Household,
2. Angha Ramchandra Shete,
Age: 68 years, Occu.: Household,
3. Archana Chandrakant Dani,
Age: 61 years, Occu.: Household,

4. Aditi Randheer Ashtekar,
Age: 55 years, Occu.: Household,
5. Aasawari Amod Phadke,
Age: 52 years, Occu.: Household,
All R/at: 304, Rajyog Co-operative
Housing Society Ltd. Bibawewadi,
Pune 411 037.

..Respondents

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Mr. Drupad Patil a/w Mr. Rugwed Rajendra Kinkar, Advocate for
Petitioners.

Mr. Chetan G. Patil a/w Ms. Siddheshwari R. Chavan, Advocate for
Respondents.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : 15th DECEMBER, 2025.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties,
matter is taken up for final hearing at admission stage.

2. The present Writ Petition takes exception to order dated
11.02.2025 passed by Member, Maharashtra Revenue Tribunal, Pune in
Tenancy Revision Application No.NS/VII/1/2019, by which learned
Member has partly allowed Revision Application and remanded matter
back to Tahsildar with direction to consider points raised in judgment
and pass fresh order within period of three months.

3. Brief facts giving rise to present Writ Petition are as under:

The dispute pertains to land Gut Nos.249 and 266 (original
survey no.388/1 and 388/3) situated at village Patilmala, Taluka
Karad. Smt. Saraswatibai Kulkarni was original owner of suit property.
According to petitioners, she had leased suit land to respondents by
registered Lease Deed dated 03.03.1952. The respondent no.2 sub-

leased land to predecessor of petitioners and they are in possession of land as sub-tenants. Since on tiller's day Sarswatibai was widow, proceeding under Section 32(G) of Bombay Tenancy and Agriculture Lands Act, 1948 (for short 'BT and AL Act') was postponed. On 04.08.1980, Saraswatibai expired. The respondent was declared as legal representative of Saraswatibai. Meanwhile, predecessor in title of petitioners had initiated proceeding under Section 32(F) r/w Section 32(G) of BT and AL Act for determination of purchase price. The ALT passed order declaring petitioners as tenants having purchased suit land for Rs.6900/-. The respondents preferred Appeal before Sub Divisional Officer. However, Sub Divisional Officer dismissed Appeal. The respondents preferred Revision Application before Tribunal. The same was dismissed on 12.02.1996. However, Review filed by respondents was allowed and matter was remanded back to Tribunal for reconsideration.

The order passed by MRT in Review was subjected to challenge in Writ Petition No.2013/2001 before this Court. On 11.01.2013, Writ Petition was allowed upholding order passed by Tribunal, which was confirmed by Sub Divisional Officer. The judgment and order passed by this Court in Writ Petition was assailed before Hon'ble Supreme Court in Civil Appeal No.1985/2014. The Hon'ble Supreme Court allowed Appeal and by setting aside order passed by this Court restored order of remand passed by MRT.

4. In second round of litigation, Tribunal accepted case of petitioners and declared their entitlement under Section 32(M) of BT and AL Act over suit properties. The said order was affirmed by Sub Divisional Officer vide judgment and order dated 30.04.2019. The respondents assailed said order in Revision before MRT. The learned Member, MRT decided said Revision vide impugned order dated 11.02.2025 and remanded matter back to Tahsildar/Tribunal. Hence, present Writ Petition.

5. Mr. Drupad Patil, learned Advocate appearing for petitioners submits that Tribunal has assessed entire material on record, recorded finding on certain issue, however, lastly passed order of remand observing that in previous round of litigation, Review filed by respondents was disposed of vide judgment and order dated 30.01.1999 and matter was remanded back to see whether petitioner is tenant or not and if he is tenant, case be decided according to law. The Tribunal further observed that respondent was permanent tenant. Later on, being legal representative of original owner, he acquired ownership. In this background, whether permanent tenancy acquired by respondent has been lapsed or not ought to have been examined by Courts below. It is further observed that Courts below have failed to record findings whether petitioners have given notice within one year from lapse of disability in terms of Section 32(F). The Courts below were under obligation to record their complete findings on aforesaid

issues. Accordingly, MRT exercised powers under Section 76 of BT and AL Act and directed remand of matter.

6. Mr. Drupad Patil would submit that entire material was before Tribunal. The Courts below had recorded their finding based on such material. The Tribunal could have examined validity and correctness of said finding instead of remanding matter back to ALT, since there was no dispute on facts and record before Tribunal. The proceedings are initiated in year 1980 and still awaiting for final adjudication. Therefore, MRT ought to have finally decided matter and given quietus to long drawn litigation instead of remanding matter back.

7. Per contra, Mr. Chetan Patil, learned Advocate appearing for respondents vehemently submits that in previous round of litigation, matter was remanded back to Tribunal with specific directions to find out whether petitioner is tenant or not. However, such findings are not recorded by Tribunal or Appellate Authority. In that view of matter, MRT has rightly exercised jurisdiction under Section 76 of BT and AL Act and remanded matter back for consideration of issues referred in Placitum Nos.8.1 to 8.11 of impugned order. He would point out that order of remand is for specific reason and even Tribunal was directed to record its findings within three months. As such, no prejudice is caused to petitioners.

8. Having considered submissions advanced by learned Advocates appearing for respective parties, this Court finds that although MRT is empowered to pass order of remand in terms of Section 76 of BT and AL Act, when Appellate Authority has failed to determine some material issue of law or committed substantial procedural defect, however, it is trite that revisional powers shall not be casually exercised for remanding matter, unless and until re-trial or recording of fresh evidence is found necessary.

9. In present case, learned Advocates appearing for both sides have conceded that they do not wish to record further evidence or rely upon fresh material and matter can be finally adjudicated on the basis of evidence and material already on record. In that view of matter, it is possible for Tribunal to render final decision instead relegating parties to Tribunal and face one more round of litigation. Perusal of impugned order would show that infact, Tribunal has recorded concrete opinion on material question of law and fact involved in matter. The learned Member has criticized findings recorded by Tribunal and Appellate Authority and practically recorded final opinion. In this background, remand of matter to Tribunal was not justified.

10. The learned Advocates appearing for respective parties, on instructions, make statement that if MRT decides Revision on merit and records finding on all aspects of matter, they would have no objection.

11. In that view of matter, impugned order passed by MRT deserves to be quashed and set aside. Hence, following order:-

ORDER

- a. Writ Petition is partly allowed.
- b. The impugned order dated 11.02.2025 passed by Member, Maharashtra Revenue Tribunal, Pune in Tenancy Revision Application No.NS/VII/1/2019, is hereby quashed and set aside.
- c. The matter is relegated back to Maharashtra Revenue Tribunal for fresh consideration and decision on merit.
- d. Parties to appear before Maharashtra Revenue Tribunal on 05.01.2026. The MRT is requested to decide revision on merit within period of four months from date of appearance of parties without influenced by observations made in impugned order dated 11.02.2025, so also observations made hereinabove.
- e. All contentions are kept open for adjudication by MRT.
- f. Rule made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE