

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11023 OF 2025

1. Pandurang Vithoba Jadhav,
Age 66 Years, Occ- Agriculturist.
 2. Vasant Vithoba Jadhav,
Age 62 Years, Occ- Agriculturist.
 3. Jaysing Vithoba Jadhav,
Age - 60 Years, Occ – Agriculturist.
 4. Maruti Vithoba Jadhav,
Age- 55 Years, Occ- Agriculturist,
All are Residing at Bahirewadi,
Tal- Panhala, Dist-Kolhapur. Petitioners
- Vs.

1. Vasant Laxman Kulkarni (Deceased)
- 1(A) Vasundhara Vasant Kulkarni (Deceased)
Through Legal Heirs
- 1A(i) Pooja Vikas Bhokare,
Age Adult, Occ- Household,
Residing at Miraj, Tal- Miraj,
Dist – Sangli.
2. The Sub Divisional Officer,
Panhala Sub Division, Panhala,
Tal- Panhala, Dist – Kolhapur.
3. The Tahsildar,
Panhala, Tal- Panhala,
Dist – Kolhapur.

4. The state of Maharashtra,
Writ cell, High Court, Mumbai. Respondents

Mr. P. D. Dalvi with Mr. Rushikesh Patil, for the Petitioners.

Mr. Manoj M. Sabale, for the Respondent No.1.

Mr. Sanjay D. Rayrikar, AGP, for the Respondent Nos.2 to 4.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 20th AUGUST 2025

PC.:-

1. The present Wit Petition takes exception to order dated 16th July 2025 passed by the Member, Maharashtra Revenue Tribunal, ('MRT') Pune Bench at Kolhapur in Revision Application No. KP/17/2025, thereby upholding the order dated 19th May 2025 passed by Sub Divisional Officer, Panhala in Tenancy Appeal No. 158 of 2024, by which prayer of the Petitioners to condone delay of 55 years and 10 months in filing an Appeal has been rejected.

2. Mr. P. D. Dalvi learned Advocate appearing for the Petitioners would submit that the predecessors of the Petitioners were protected tenants of land bearing Gat No.245 situated Bahirewadi, Taluka-Panhala, District-Kolhapur. The predecessor of the Petitioners namely Vithu Andu Jadhav alias Vitthal Anandrao Jadhav was in occupation of the suit land since 1927. On 5th September 1950, the

suit land was mutated in his name as protected tenant vide Mutation Entry No. 497. After the death of Vithu Jadhav, present Petitioners are cultivating the suit land.

3. In the year 1964, the predecessor of the Petitioners had filed an Application under Section 32G of the Maharashtra Tenancy and Agriculture and Land Act, 1948 (For short, '**the Tenancy Act**') for fixing the purchase price of the suit property. However, since they remained absent, Agricultural Land Tribunal disposed of the Application observing that the tenants are not willing to purchase the suit property. Thereafter, the proceedings was taken under Section 32P of the Tenancy Act. In the said proceedings the Tribunal passed order dated 18th November 1968, thereby terminating the tenancy with direction to surrender possession of the suit land in favour of landlord for his personal cultivation.

4. Mr. P. D. Dalvi further submits that the aforesaid order was never implemented, possession of the suit land continued with the Petitioners till today. In this background, Petitioners filed Tenancy Appeal No. 158 of 2024 before the Respondent No. 2-Sub Divisional Officer, Panhala impugning the Judgment and Order passed by the

Tribunal in year 1964 and 1968 under Sections 32G and 32P respectively along with the application to condone delay. However, Respondent No.2 declined to entertain application.

5. Aggrieved Petitioners filed Revision Application No. KP/17/2025 before MRT, which has been rejected vide order dated 16th July 2025.

6. Mr. Dalvi, learned Advocate appearing for the Petitioners submits that in absence of material to indicate that there has been valid surrender of tenancy by the predecessor of Petitioners, orders passed under Sections 32G and 32P are unsustainable.

7. According to Mr. Dalvi, delay would not defeat justice. He would urge that predecessors of Petitioners were admittedly protected tenants over the suit property. Although, impugned order is passed under Section 32P of the Tenancy Act, it was never implemented and possession of Petitioners is continued till this date. The delay in filing the appeal is unintentional. The Petitioners were not aware about impugned order. They came to know about the same in recent past and immediately, took steps for filing Appeal

8. Per Contra, Mr Manoj Sabale, learned Advocate appearing for the Respondent No.1 supports impugned order by submitting that no grounds are made out to condone inordinate delay of 55 years. He would therefore, urge to reject the Writ Petition.

9. Having considered the submissions advanced by the learned Advocate appearing for respective parties and on perusal of the record tendered before this Court, it can be observed that one Vithoba Aundu Jadhav was protected tenant over the suit property. On 5th September 1950, his name was mutated in the Tenancy Register No. 24 as a protected tenant vide Mutation Entry No.497. In year 1964, Tribunal initiated proceedings under Section 32G of Tenancy Act for determination of purchase price of the land to be paid by the tenant. The notice of the proceeding under Section 32G was served to the tenant, however, on his failure to cause appearance, order dated 19th March 1964 was passed under Sub Section (3) of Section 32G, holding that tenant is not willing to purchase the land and that the purchase is ineffective.

10. In deference to the aforesaid order, further proceedings was initiated before the Tribunal under Section 32P for disposal of the

land not purchased by tenant. Eventually, order dated 18th November 1968 was passed directing surrender of land in favour of landlord.

11. In this background the petitioners filed Tenancy Appeal No. 158 of 2024 under Section 74 of the Act of 1948 along with Application under Section 5 of the Limitation Act to condone delay of 55 years caused in filing the Appeal against the order dated 18th November 1968.

12. The perusal of reasons stated in Application indicates that due to domestic problems, predecessor of the Petitioners could not file appeal in time. It is stated that the order under Section 32G has been passed only because tenant could not remain present before the Tribunal and further order under Section 32P is passed on the basis of order passed under Section 32G. Except these two statements, no other reasons are employed to demonstrate impediment for tenant to challenge order passed in year 1968.

13. It has come on record that father of Petitioners expired in the year 1989. During his lifetime, he never thought it fit to assail the

order passed in 1968. The only contention that Petitioners are continuously in possession of suit property, even after passing of order of 1968 or landlord has not taken steps to execute the order, cannot be ground to condone inordinate delay of 55 years and 10 months.

14. The Respondent No.2 has considered the aforesaid aspects and observed that no sufficient reasons are employed to justify inordinate delay in filing appeal. Similarly, MRT confirmed order of Respondent No.2. It is not the case of the Petitioners that predecessors of Petitioners were not aware about the orders passed in 1964 or 1968. The only reason employed by them to justify inordinate delay is that due to domestic problem, impugned orders could not be challenged. Such reasons cannot be countenanced.

15. Although, Mr. P. D. Dalvi, learned Advocate strenuously contends that surrender of tenancy was not in accordance with law, particularly, procedure of surrender was not observed, while recording such surrender, this Court finds that merits of the matter cannot be gone into, while dealing with prayer for condonation of delay. It is not a case where order is passed by the authority having

no jurisdiction or no other reason is brought to notice of this Court, on the basis of which 55 years old order passed by Tribunal can be declared as nullity.

16. In this background, even by adopting the liberal approach, the inordinate delay of 55 years and 10 months cannot be condoned. For the reasons stated above, this Court finds no reason to invoke the extraordinary jurisdiction under Article 227 of the Constitution of India and interfere in the impugned order.

17. Writ Petition *sans* merit and accordingly dismissed.

(S. G. CHAPALGAONKAR, J.)

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signed by
RAJU
DATTATRAYA
GAIKWAD
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