

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

WRIT PETITION NO.499 OF 2025

Leela Krushna Patil & Ors.

....Petitioners

V/S

Sitabai Dhondu Dhumal & Ors.

....Respondents

Mr. Kartik S. Garg a/w Mr. Aashka Shell *for the Petitioners.*

CORAM: SANDEEP V. MARNE, J.

DATE : 13 JANUARY 2025.

P.C.:

1. The Petition challenges order dated 22 October 2024 passed by the Maharashtra Revenue Tribunal, Mumbai (**MRT**) partly allowing the Appeal preferred by Respondent No.1 and setting aside the order dated 31 January 2019 passed by Sub Divisional Officer as well as order dated 10 August 2011 passed by Tahasildar, Agricultural Land Tribunal (**ALT**) and remanding the proceedings for fresh enquiry to be conducted by the ALT.

2. It appears that the husband of Petitioner No.1 (Krushna Mahadu Patil) had filed an application before ALT for fixation of purchase price of the land under provisions of Section 32G of the Maharashtra Tenancy and Agricultural Lands Act (**the Act**).

During pendency of his application, Krushna Mahadu Patil passed away. It appears that instead of his legal heirs (Petitioners) driving further the proceedings filed under Section 32G of the Act by Krushna Mahadu Patil, his cousin sister Sitabai Dhondu Dhumal (Respondent No.1) suddenly appeared at the scene and was allowed by the ALT to drive the proceedings further. Therefore fixation of purchase price and issuance of 32M Certificate took place in the name of Respondent No.1 and not in the name of Petitioners by reason of order dated 10 August 2011 passed by the ALT.

3. Petitioners challenged ALT's order dated 10 August 2011 before Sub Divisional Officer, who proceeded to allow the said Appeal and set aside ALT's order dated 10 August 2011 as well as 32M Certificate dated 19 November 2011 passed/issued in favour of Respondent No.1. Since Sub Divisional Officer's order was passed without condoning the delay, the proceedings were remanded before the Sub Divisional Officer by the MRT in the previous round of litigation. Sub Divisional Officer thereafter proceeded to condone the delay in filing Appeal of the Petitioners by order dated 30 July 2018. Sub Divisional Officer thereafter allowed the Appeal preferred by the Petitioners and once again set aside ALT's order dated 10 August 2011 as well as 32M Certificate dated 19 November 2011. The Sub Divisional Officer also set aside the two mutation entries by which name of Respondent No.1 was mutated to the revenue records.

4. Respondent No.1 filed Revision Application No.323 of 2019 before MRT challenging Sub Divisional Officer's order dated 31 January 2019. It appears that during pendency of the Revision before MRT, there was no stay to the effect of the Sub Divisional Officer's order dated 31 January 2019. Petitioners took advantage of this position and filed an application under Section 70(b) of the Act and secured an order declaring them to be tenants on 30 January 2020. Thereafter Petitioners filed their own independent application for fixation of purchase price of land in question under Section 32G of the Act and secured order dated 16 September 2021 fixing price of the land in question and after payment of the said price they secured 32M Certificate in their name. The MRT has now allowed the Revision preferred by Respondent No.1 by impugned order dated 22 October 2024 holding that the Sub Divisional Officer ought to have determined the competing claims between Petitioners and Respondent No.1 about tenancy rights. To enable the ALT to determine such competing claims, the MRT has remanded the proceedings to the ALT by setting aside Sub Divisional Officer's order dated 31 January 2019 as well as ALT's order dated 10 August 2011.

5. Mr. Garg, the learned counsel appearing for Petitioners would submit that it is not necessary for the ALT to conduct a fresh enquiry into competing claims of Petitioners and Respondent No.1 as such an enquiry has already been conducted by the ALT while passing orders dated 30 January 2020 and 16

September 2021. He would highlight the position that Respondent No.1 was impleaded to the applications on which orders dated 30 January 2020 and 16 September 2021 have been passed. I am unable to agree. Orders dated 20 January 2020 and 16 September 2021 are passed by the ALT since application for fixation of purchase price under Section 32G of the Act was preferred by the Petitioners by taking advantage of Sub Divisional Officer's order dated 31 January 2019. By order dated 31 January 2019 the Sub Divisional Officer had set aside 32G order and 32M Certificate in favour of Respondent No.1. During pendency of Appeal preferred by Respondent No.1 challenging the order dated 31 January 2019 Petitioners secured fresh order of fixation of purchase price from the ALT on 16 September 2021. While fixation of purchase price on 16 September 2021 the ALT did not have any occasion to determine competing claims between Petitioners and Respondent No.1 relating to the tenancy rights. It appears that before fixation of the purchase price Petitioners secured a declaration under provisions of Section 70(b) of the Act vide order dated 30 January 2020. However perusal of the order dated 30 January 2020 would indicate that the same is heavily guided Sub Divisional Officer's order dated 31 January 2019. The only reason why Petitioners claim of tenancy under Section 70(b) of the Act came to be upheld by the ALT is on account of setting aside of Sub Divisional Officer's order dated 31 January 2019. Except considering Sub Divisional Officer's order dated 31 January 2019, the ALT has not conducted any independent enquiry into the competing claims of

Petitioners and Respondent No.1 *qua* tenancy rights in respect of land in question. Therefore, I am unable to agree with the contention of Mr. Garg that conduct of fresh enquiry into competing claims between Petitioners and Respondent No.1 is unnecessary in the light of order dated 30 January 2020.

6. True it is that the MRT ought to have noticed passing of order dated 30 January 2020 passed by ALT as well as fixation of purchase price vide order dated 16 September 2021 as well as issuance of 32M Certificate in favour of the Petitioners in pursuance of the said orders. However, what is relevant to be noted in the present case is the fact that MRT's order merely ensures determination of competing claims with Petitioners and Respondent No.1 relating to their respective tenancy rights. So far, there is no determination of such competing claims and it would be appropriate that the factual controversy with regard to such claims between Petitioners and Respondent No.1 are determined by ALT before undertaking further exercise of fixation of purchase of price and issuance of 32M Certificate.

7. Therefore, though MRT has ignored order passed by ALT on 30 January 2020 issuing declaration in favour of Petitioners under Section 70(b) of the Act as well as order dated 16 September 2021 fixing the purchase price under Section 32G of the Act, I am not inclined to interfere in the order passed by the MRT. In my view, since the orders of the ALT dated 30 January

2020 as well as 16 September 2021 were fully based on and guided by the Sub Divisional Officer's order dated 31 January 2019, which has since being set aside, the said orders dated 30 January 2020 and 16 September 2021 have been rendered meaningless. Expecting Respondent No.1 to challenge the said orders dated 30 January 2020 and 16 September 2021 would only amount to multiplication of proceedings. On the other hand, the order passed by the MRT would ensure that both the parties would present their respective claims about tenancy rights in respect of the land in question and the ALT would determine the said tenancy dispute on a clean slate. In my view therefore, no interference is warranted in the impugned order passed by the MRT, Writ Petition is accordingly **rejected**. All contentions of the parties on merits are expressly kept open to be agitated before the ALT.

(SANDEEP V. MARNE, J.)

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