

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9849 OF 2025

Krishna Dhondiba Saste, (Since Deceased through the legal heirs) Gulab Narayan Saste & Ors	..Petitioners
Versus	
Swapnil Dattu Sasawade & Ors	...Respondents

WITH

WRIT PETITION NO. 9851 OF 2025

Shripati Aaba Tekale (Since deceased through the legal heirs) Dattatraya Baburao Tekale & Ors	..Petitioners
Versus	
Swapnil Dattu Sasawade & Ors	...Respondents

Mr. Anil Anturkar, Senior Advocate, with Tanaji Mhatugade, for the
Petitioner in both the Petitions.
Mr. A.A Kumbhakoni, Senior Advocate, with Pradeep N, i/b Prabhakar
M. Jadhav, for Respondent No.1 in WP/9849/2025.
Mr. V.P. Sawant, Senior Advocate, with Pradeep N, i/b Prabhakar M.
Jadhav, for Respondent No.1 in WP/9851/2025.

CORAM: N. J. JAMADAR, J.
DATE : 3rd NOVEMBER 2025

ORDER:

1. As the challenge in these Petitions arises in the backdrop of, by
and large, identical facts, the Petitions were heard together.

2. The Petitioners claim that their predecessor-in-title were the protected tenants in respect of the lands bearing new Gat Nos. 411, 416, 419, 430, 427, 410, 414, 417 and 434 corresponding old Gat Nos. 412, 417, 420, 431, 428, 411, 415, 418 and 435 situated at village Moshi, Taluka Haveki, District Pune (“the subject lands”).

3. The Respondents, who claim to be the owners and landlords of the subject lands, initially filed an Application before the Nayab Tahasildar, seeking deletion of the name of the predecessor-in-title of the Petitioners from the other rights column of the Record of Rights of the subject land.

4. By an order dated 19th March 2012, the Nayab Tahasildar, rejected the Application opining *inter alia* that the owners will have to workout their remedies before the appropriate forum.

5. The Respondents filed an Application under Section 70(b) of the Maharashtra Tenancy and Agricultural Lands Act, 1948 (“the MT & AL Act”) before the Agricultural Land Tribunal (“ALT”) seeking a negative declaration that predecessor-in-title of the Petitioners were not the tenants in respect of the subject lands. By an order dated 16th July 2020, the ALT allowed the said Application and declared that the predecessor-in-title of the Petitioners in Writ Petition No. 9849 of 2025, and Shripati Abaji Tekale, the predecessor-in-interest of the Petitioners in Writ Petition No. 9851 of 2025, were not the tenants in respect of the subject

lands and further directed that the names of the predecessor-in-interest of the Petitioners in both the Petitions namely, Shripati Abaji Tekale, Krishna Dhondiba Saste, Babu Maruti Saste, Dhondiba Rambhau Saste be deleted from the other rights column of the Record of Rights of the subject lands.

6. Being aggrieved, the Petitioners had preferred an Appeal being Appeal No. 519 of 2020 (New Appeal No. 18 of 2021). By an order dated 27th June 2022, the Appeals were dismissed by the Sub-Divisional Officer. Being further aggrieved, the Petitioners preferred Revision Application Nos. P/VII/2 of 2022 and P/VIII/2 of 2022 before the Maharashtra Revenue Tribunal (“MRT”).

7. After appraisal of the material on record, the learned President, MRT, Pune, found no reason to interfere with the concurrent findings recorded by the ALT and SDO and the Revision Applications were dismissed by an order dated 2nd November 2023.

8. The Petitioners filed Applications for Review of the aforesaid order being P/I/02/2024 (Review) and P/I/01/2024 (Review). By an order dated 2nd May 2025, the MRT dismissed Review Applications as well.

9. Being aggrieved the Petitioners have invoked the writ jurisdiction.

10. I have heard Mr. Anil Anturkar, learned Senior Advocate, for the Petitioners in both the Petitions, Mr. A. A. Kumbhakoni, the learned

Senior Advocate, for the Respondent No.1 in Writ Petition No. 9849 of 2025 and Mr. V. P. Sawant, the learned Senior Advocate, for the Respondent No.1 in Writ Petition No. 9851 of 2025.

11. Mr. Anturkar submitted that none of the Authorities including the MRT have considered the submissions on behalf of the Petitioners that they were the tenants in cultivation of the subject lands on the Tillers Day. The Authorities have misdirected themselves in holding that there was no relationship of the landlord and tenant between the Respondents and the predecessor-in-title of the Petitioners, on the basis of an order dated 10th July 1970 passed by the ALT, Pune, wherein it is recorded that the predecessor-in-title of the Petitioners appeared in 32G proceedings and stated that they were not in possession of the subject lands as the tenants thereof and that the landlords were not cultivating the subject lands personally. Mr. Anturkar would urge, at best, it would be case of the surrender of the tenancy which had to satisfy the rigors of Section 15 of the MT & AL Act, 1948.

12. In opposition to this, the learned Senior Advocates for the Respondent No.1, submitted that the order passed by the ALT on 10th July 1970 has attained finality as it was never challenged. The ALT has categorically recorded that there was no existing relationship of the landlord and tenant between the Respondents and the predecessor-in-title of the Petitioners and, therefore, the proceedings under Section

32G have been dropped. In this backdrop, the concurrent findings of facts by the three authorities under the MT & AL Act do not warrant interference in exercise of the writ jurisdiction.

13. It could not controverted that the proceeding under Section 32G of the MT & AL Act were dropped in the year 1970. The predecessor-in-title of the Petitioners or the Petitioners never challenged the said order passed by the ALT in the proceedings under Section 32G of the MT & AL Act. Instead the Respondents filed an Application under Section 70(b) of the MT & AL Act, seeking a negative declaration that the predecessor-in-title of the Petitioners were not the tenants in respect of the subject lands and for deletion of their names in the other rights column of the Record of Rights. It is pertinent to note that the ALT had recorded that the predecessor-in-title of the Petitioners disowned their status as tenants, and thereby expressed unwillingness to purchase the subject lands under Section 32G of the MT & AL Act. Moreover, the ALT recorded that the landlords were personally cultivating the subject lands as was evident from the entries in the Record of Rights.

14. It would be contextually relevant to note that under Section 32G(3) of the MT & AL Act, where the tenant makes a statement that he is not willing to purchase the land, the Tribunal is enjoined to make a declaration that the tenant is not willing to purchase land and that the

purchase is ineffective. Therefore, it cannot be said that the order passed by the ALT on 10th July 1970 has no legal sanctity.

15. The submission on behalf of the Petitioners that it was necessary to follow the mandate of the provisions contained in Section 15 of the MT & AL Act for a valid surrender, in the facts of the case, does not carry much substance. Once an order was passed by the ALT under Section 32G(3) of the MT & AL Act, if the tenants intended to question the legality and correctness of the said order on the ground that it was not a lawful surrender under Section 15, it was incumbent upon them to assail the said order in an appropriate proceeding.

16. A profitable reference in this context can be made to a judgment of the learned Single Judge of this Court in the case of **Krishna @ Kisan Rajaram Karve & Ors Vs Dinkar Anaji Kumbhar & Ors**,¹ wherein it was enunciated that even when it was the case of the tenant that the order of surrender was a nullity, it was incumbent upon the tenant to challenge the said order before the Appellate Authority. The observations in paragraph 6 of the said judgment are material. Hence extracted as below.

“6. Mr. Gole for the tenant, however, contends that whether the tenant had filed the appeal or not would make no difference to the facts on hand. According to him, the order of surrender itself was nullity and such order could be and ought to be ignored. I find no substance even in this

1 2005(1) Bom CR 750.

submission. In the first place, the argument that the order of surrender is nullity is misconceived. At best, it is possible to contend that the order of surrender is illegal, but is not a case of nullity as such. Assuming that it was a case of nullity, as is rightly submitted on behalf of the Landlords, relying upon the decisions of the Apex Court in the case of State of Punjab V Gurudev Singh, Ashok Kumar, A.I.R. 1991 SC 2219; and in the case of V.S. Charati V Hussain Nhanu Jamadar by L.Rs., 1991(1) Mh.L.J. 782 even in that case, it was imperative for the tenant to put the said order in issue before the appellate authority which remedy was provided for by the statute. Having failed to avail of the said remedy within the prescribed period and having suffered the order for almost 23 years, the tenant cannot be heard to say that the said order be ignored. The Apex Court in the aforesaid two decisions has held that such order would bind the parties and the party aggrieved by the invalidity of the order has to approach the appropriate forum for relief of declaration that the order against him is inoperative and not binding on him. Applying the said principle to the present case, I have no hesitation in taking the view that the order of surrender as passed on 30th October 1959 will hold the field and cannot be ignored, as being suggested on behalf of the tenant.”

17. The aforesaid proposition of law may govern the facts of the case at hand, as well. The declaration was made by the ALT under Section 32G(3) of the MT & AL Act. The failure to assail the said order was, therefore, at the own peril of the predecessor-in-title of the Petitioners and resultantly the Petitions do not deserve to be entertained.

18. Hence, the Petitions stand dismissed.

[N. J. JAMADAR, J.]