



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH AT NAGPUR**

**WRIT PETITION NO.5151 OF 2024**

**PETITIONERS**

- 1) Bhayyasahed S/o. Pundlikrao Band,  
Aged about 70 years, Occu. :  
Agriculturist, R/o. At. Kharwadi, Post,  
Kharala Tq. Chandur Bazar, Distt.  
Amravati
- 2) Ashok S/o. Kashirao Band, aged about  
60 years, Occu: Agriculturist, R/o. At.  
Kharwadi, Post. Kharala Tq. Chandur  
Bazar, Distt. Amravati  
  
Dnyaneshwar Ruprao Band, (Since  
Dead through its legal heirs)
- 3-a) Sulochana W/o. Dnyaneshwar Band,  
aged about years, Occu: Agricultur-  
ist, R/o. Rahatgaon, Tq. And Distt.  
Amravati
- 3-b) Rajendra S/o. Dnyaneshwar Band,  
aged about 52 years, Occu:  
Agriculturist R/o. Amravati, Tq. And  
Distt. Amravati.
- 4) Manohar S/o. Ruprao Band, aged  
about 70 years, Occu: Agriculturist,  
R/o. Amravati, Tq. and Distt.  
Amravati.
- 5) Vijay S/o. Ruprao Band, aged about  
65 years, Occu: Agriculturist, R/o. At.  
Kharwadi, Post. Kharala, Tq. Chandur  
Bazar, Distt. Amravati.

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- 6) Vinod Ruprao Band, (Since Dead through his legal heirs)
- 6-a) Smt. Vina Wd/o. Vinod Band, aged about        years, Occu: Agriculturist, R/o. At. Kharwadi, Post. Kharala, Tq. Chandur Bazar, Distt. Amravati.
- 6-b) Rohit S/o. Vinod Band, aged about        years, Occu: Agriculturist, R/o. At. Kharwadi, Post. Kharala, Tq. Chandur Bazar, Distt. Amravati.
- 6-c) Sau. Shneha W/o. Ranjit Dhake, aged about        years, Occu: Agriculturist R/o. At. Kharwadi, Post. Kharala, Tq. Chandur Bazar, Distt. Amravati  
(Ori. Applicants) (ON RA)

**...VERSUS...**

**RESPONDENT**

Amarsingh S/o Krushnarao Deshmukh, aged about 68 years, Occ.: Agriculturist & Advocate, R/o. Post Talvel, Tq. Chandur Bazar, Dist. Amravati

At Present residing at Deshmukh Bungalow, Camp Road, Amravati, Tq. and Dist. Amravati

**(Ori. Non-Applicant) (ON RA)**

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Mr. J.B. Kasat, Advocate for Petitioners.  
Mr. , Advocate for Respondent.  
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**CORAM : SIDDHESHWAR S. THOMBRE, J.**  
**DATE : 15/10/2025**

**ORAL JUDGMENT :**

1. Heard. **Rule.** Rule made returnable forthwith. The petition is heard finally with the consent of the learned Counsel for the respective parties at the stage of admission.

2. By way of the present writ petition, the petitioners are challenging the order passed by the Maharashtra Revenue Tribunal, Nagpur, whereby the revision filed by the present respondent came to be allowed and the same is being assailed by the petitioners. The present petitioners had filed an application before the Agricultural lands Tribunal, Chandurbazar, under Section 48 read with Section 46 of the Bombay Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (for short "the Act") on 27.05.2004 wherein it was stated that Pundlikrao Gulabrao Band and Kashirao Gulabrao Band were real Brothers and Ruprao Champatrao Band was their cousin brother. The Hindu Joint Family had taken a lease of Suit land in the name of Ruprao Champatrao Band and Pundlikrao Gulabrao Band as members of Hindu Joint Family. Ruprao Champatrao Band has expired on 22.01.1988, Pundlikrao Gulabrao Band expired on 07.07.1998 and Kashirao has expired on 14.02.2000, therefore as per Section 54 of the Act the coparceners inherited the property and thereby became the tenants of

the suit land being the coparceners in the family. After the death of Ruprao Champatrao Band, Pundlikrao and his brother Kashirao Gulabrao Band, the applicants herein cultivating the suit land as heir. It was contended in the application that the non applicant being a minor on vesting date of 01.04.1961, the ownership could not be transferred in the name under deceased protected lessee, tenant – Ruprao and Pundlikrao Band as per section 46 of the Act. It was further averred in the application that it was the duty of the tribunal to start suo motu proceeding for the compulsory transfer of ownership in favour of the tenant as soon as the disability ceased, but no such suo motu proceedings were started after attaining the majority by the non-applicant. After attaining the majority, the non applicant himself did not take any action to get the suit land for personal cultivation within a period of one year after the disability ceased. It was further contended that as per the land revenue the price came to Rs.3,120/-, therefore, by way of an application the present petitioner prayed before the Tribunal that price be fixed and the sale certificate be granted.

3. After receipt of the said application the learned Tribunal issued notices to the other side and the same were replied by the respondent herein. Respondent specifically denied in the written

statement that Hindu Joint Family had taken the suit land on lease. Further it was disputed that the suit land was inherited by the coparceners and they have become the tenants of suit land. The respondent have specifically raised issue of delay as the application was filed by the petitioner on 27.05.2004, whereas he became major on 17.07.1977 itself. It was specifically denied that the suit land was given to the applicants as tenants and further it was averred that there was no question of the applicants becoming tenants as there was no record to that effect placed before the authority. Despite of delay in filing the application after attaining majority and lack of record indicating that applicants were tenants, the application was registered. Therefore, he had prayed to dismiss the application.

4. The learned Tahsildar, Chandurbazar, by order dated 30.12.2017, allowed the application filed by the petitioners herein and fixed the price for the suit land and further issued a sale certificate in favour of the present petitioners. This order was assailed by the present respondent by filing appeal before the Sub-Divisional Officer, Achalpur, which has confirmed the order passed by the Tahsildar.

5. Being aggrieved by the aforesaid order, the respondent herein filed an appeal before the Member (Judicial), Maharashtra

Revenue Tribunal vide its Tenancy Revision No. REV/TNC/AMR-15/2020, which was allowed and the orders passed by the Tahsildar and Sub-Divisional Officer were set-aside.

6. The learned counsel for the petitioners, submit that as the petitioners are already declared as protected tenant and the only question of fixing the price and issuance of sale certificate was remained to be considered. The respondent became major in the year 1977 and for filing an application under Section 48 r/w. Section 46 of the Act, there is no limitation prescribed. When there is no specific time limit prescribed, the application can be filed at any time. Learned Counsel for the petitioner further submits that it was the Tribunal who was supposed to take suo motu action under section 46 of the Act. Therefore, the application filed by the petitioners in the year 2004 is perfectly maintainable and the Tahsildar as well as the Sub Divisional Officer have rightly passed orders thereby fixing the price and directing to issue sale certificate. In support of his contention the learned counsel for the petitioners has relied upon the following judgments : -

1. *Uttam Namdev Mahale Vs. Vithal Deo and Ors.* Reported in (1997) 6 SCC Case No.73, decided on 07.05.1997.

*“4. Mr. Bhasme, learned counsel for the appellant, contends that in the absence of fixation of the rule of limitation, the power can be exercised within a reasonable time and in the absence of such prescription of limitation, the power to enforce the order is vitiated by error of law. He places reliance on the decisions in State of Gujara v. Patil Raghav Natha<sup>2</sup>; Ramchand v. Union of India<sup>3</sup> and Mohd. Kavi Mohamad Amin v. Fatmabai Ibrahim<sup>4</sup>. We find no force in the contention. It is seen that the order of ejectment against the applicant has become final. Section 21 of the Mamlatdar’s Court Act does not prescribe any limitation within which the order needs to be executed. In the absence of any specific limitation provided thereunder, necessary implication is that the general law of limitation provided in the Limitation Act (Act 2 of 1963) stands excluded. The Division Bench, therefore, has rightly held that no limitation has been prescribed and it can be executed at any time, especially when the law of limitation for the purpose of this appeal is not there. Where there is statutory rule operating in the field, the implied power of exercise of the right within reasonable limitation does not arise. The cited decisions deal with that area and bear no relevance to the facts.”*

**2. L. J. Kriplani since deceased by his legal heirs Vs. Manik Aditwar Patil & Ors.** Reported in (2000) SCC OnLine Bom 354, Decided On 17.06.2000.

*“4. The petitioners have challenged the aforesaid decision of the Tribunal in this petition. Ld. Counsel for the petitioner mainly argued two points before this Court. According to him the tenant ought to have reasonable time, thought's initiated 32-G proceedings within a limitation has been provided therefor. The second point which was pressed into service was that the Appellate Court and the Tribunal committed an error holding, that the respondents were tenants merely on the basis of mutation entries, that tod when the said entries have been certified without notice to the petitioner. The Ld. Counsel appearing for the respondents on the other hand contended that the first point is covered by the decision of the Apex Court in the case of (Uttam Namdeo Mahale v. Vithal Deo)<sup>1</sup>,*

*1998 (1) Bom. C.R. (S.C.) 786: (1997) 6 SCC 73: 1997 (5) Supreme 578. In so far as the second point is concerned it is contended on behalf of the respondents that whether the respondents were tenants or not is a pure question of fact and the same has been rightly concluded by the Appellate Court as well as the Tribunal, which conclusion does not warrant any interference in exercise of writ jurisdiction.*

*5. Having considered the rival contentions I have no hesitation in accepting the submission on behalf of the respondents that merely because the respondents initiated proceedings in the year 1981 that would not enure to the benefit of the petitioner in any manner. The Ld. Counsel for the respondents is right in contending that having regard to the principle enunciated in the judgment of the Apex Court in the case of Uttam Namdeo Mahale (supra), it is not open for the petitioners to contend to the contrary. On a bare reading of section 32-G of the Act, it makes it clear that the duty to initiate the said proceedings is primarily cast on the authorities. Therefore, merely because the tenant initiates the proceedings belatedly it cannot rob him of the right which is crystalised in his favour on the tiller's day of having become a deemed purchaser of the lands. The provisions under section 32-G are merely for determining the purchase price in respect of lands which have been deemed to have been purchased by the tenant on the tiller's day. I, therefore, rejected the argument advanced on behalf of the petitioners that because of delay in initiating the proceedings by the tenants, as late as in the year 1981, they have disentitled them of any relief."*

**3. *Keshav Ganesh Bedekar, since deceased through his legal heirs Vs. Gopinath Krishna Salunke, since deceased through his legal heirs* Reported in (2002) SCC OnLine Bom 961, Decided On 01.10.2002.**

*"8. Mr. Sargule the learned Counsel for the petitioner submitted that in the first place the respondent was not entitled to apply under section 32-G in view of the fact that the respondent had surrendered his tenancy on 1-6-1956 and order had been passed on 25-8-1956 holding that the surrender is voluntary and that possession has already been mutually taken over by the landlord. According to*

*the learned Counsel for the petitioners an application for determination of purchase price made under section 32-G is not tenable in the year 1982. This point has been raised and already considered by a learned Single Judge of this Court in (L.J. Kriplani since deceased by his legal heirs v. Manik Aditwar Patil)<sup>1</sup>, reported in 2000 (4) Bom. C.R. 366: 2000 (3) All. M.R.. 281 relying on the judgment of the Supreme Court in the case of (Uttam Namdeo Mahale v. Vithal Deo)<sup>2</sup>, reported in 1998 (1) Bom. C.R. (S.C.) 786: (1997) 6 SCC 73. Learned Single Judge has concluded that section 32-G of the Tenancy Act casts a duty on the authority to initiate proceedings for determination of purchase price. The status of deemed purchaser is conferred on a tenant with effect from 1-4-1957 itself and therefore, the landlord cannot raise the plea of limitation. I am in agreement with the view of the learned Single Judge.”*

**4. *Limbaji Shankar Munde (deceased through L.Rs.) Vs. Bhaurao Baliram Munde (deceased through L.Rs.) and others*** Reported in 2010 (3) Mh.L.J. 138, Decided on 16.12.2009.

*“5. I have perused the orders passed by all the three tenancy authorities and heard arguments advanced by learned counsel for the respective parties. Learned counsel for the petitioner raised twofold objections to the impugned order passed by the trial Court. According to the petitioner, application tendered by respondent No. 1 before the Tahsildar is not entertainable under section 38-E(1) explanation of the Hyderabad Tenancy and Agricultural Lands Act, 1950 and the remedy available to the dispossessed tenant is by way of presenting application under section 98 of the Act. The another objection raised by the petitioner is in respect of bar of limitation. According to him, the application which is tendered by the tenant after more than 30 years of his alleged dispossession is not entertainable even under the provisions of section 38-E(1) explanation of the Act. Learned counsel for the petitioner submits that wherever the relevant provision is silent in respect of limitation, remedy is required to be availed within reasonable period. According to learned counsel for the petitioner, the applicant has approached the tenancy authority after 30 years of alleged dispossession and as such it cannot be contended that the tenant has*

*knocked the doors of the authority within reasonable period. Learned counsel for the petitioner therefore contends that the tenancy authority ought not to have entertained the application tendered by the dispossessed tenant after about 30 years of his alleged dispossession.*

*7. It is true that section 38-E(1) explanation does not provide for any limitation for presenting an application by a tenant who is declared as owner seeking recovery of possession. Mr. Nagargoje, learned counsel for the petitioner vehemently contends that where a Statute is silent in respect of limitation for availing the remedy, the litigant concerned has to approach the Court or the appropriate forum within reasonable time. According to him, the tenant has approached the tenancy authority after 30 years of his dispossession and the period of 30 years cannot be construed as a reasonable period. Reliance is placed on a judgment in the matter of Mohan Pandurang Kashid and others vs. Anusayabai Rajaram Mane and others, reported in 2000(2) Mh.L.J. 532. The matter arose before the Court in pursuance to application tendered by owner of the land under section 29(2) read with section 33(b) of the Bombay Tenancy and Agricultural Lands Act for restoration of possession. The owner had obtained certificate under section 88-C of the Act prior to presentation of application in question. Application was tendered after 18 years of accrual of cause of action in the reported matter. The learned Single Judge of this Court considering the question of delay in approaching the Court has recorded in paragraph No. 13 and 16 of the judgment that where no limitation is prescribed, steps must be taken within reasonable time. Reliance is placed by the learned Single Judge on the judgment of the Apex Court in the matter of Mohamad Kavi Mohamad Amin vs. Fatmabai Ibrahim, reported in (1997) 6 SCC 71. The matter before the Division Bench was under the provisions of Bombay Prevention of Fragmentation and Consolidation of Holdings Act in respect of variation of the scheme. While dealing with the matter, the Division Bench has recorded thus:*

*Though there is no time limit prescribed under:-*

*"Section 32(1) for the Settlement Commissioner to vary the scheme which has come into force, but obviously even in the absence of any period prescribed under section 32, the said power can only*

*be exercised within reasonable period in any case. What would be the reasonable period for exercise of power under section 32(1) by the Settlement Commissioner may depend on facts and circumstances of each case. Ordinarily exercise of such power after three years of finalisation of scheme under section 22 may not be justified. In the facts and circumstances of the present case, the exercise of power by Settlement Commissioner for variation of scheme which had come into force in the year 1973, by initiating proceedings in the year 1988 cannot be said to be within reasonable time."*

*8. In order to controvert the contentions raised by the petitioner, it is urged by learned counsel for the respondent that where the Statute does not prescribe period of limitation, the remedy available to the litigant cannot be taken away by reading something which is not there in the Statute. It is contended that the Legislation has conferred benefits on certain class of agriculturists i.e. tenants and the Legislature in its wisdom has intentionally not provided limitation for securing relief by the class of persons i.e. tenants. The concerned provision is a part of beneficial legislation for advancement of the cause of tenants and as such the remedy bestowed upon the class of tenants cannot be taken away by prescribing bar of limitation which in fact is not provided in the Statute. It is contended that the authority relied upon by the petitioner are not applicable to the instant case and that provisions of the Tenancy Act are required to be interpreted differently. Reliance can be placed on reported judgment of the Apex Court in the matter of Uttam Namdeo Mahale vs. Vithal Deo and others, reported in (1997) 6 SCC 73. Objection was raised in the proceeding initiated for execution of the order passed under the Mamlatdar Courts Act on the ground that the remedy is unavailed after lapse of unreasonable period. Section 21 of the Mamlatdar Courts Act has not prescribed any limitation for execution of orders. It was contended before the Apex Court that the power can be exercised within reasonable period and in the absence of such prescription of limitation, the power to enforce the order is vitiated by error of law. Reliance was also placed on the earlier judgment of the Apex Court in the matter of Ram Chand vs. Union of India, reported in (1994) 1 SCC 44. However,*

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the Apex Court turned down the contention holding thus:

*"In the absence of any specific limitation provided thereunder, necessary implication is that the general law of limitation provided in the Limitation Act (Act 2 of 1963) stands excluded. The Division Bench, therefore, has rightly held that no limitation has been prescribed and it can be executed at any time, especially when the law of limitation for the purpose of this appeal is not there. Where there is statutory rule operating in the field, the implied power of exercise of the right within reasonable limitation does not arise. The cited decisions deal with that area and bear no relevance to the facts."*

9. While dealing with the provisions of section 32(1-B) of the Bombay Tenancy and Agricultural Lands Act, 1948. The learned Single Judge has adopted a similar view. Provisions of section 32(1-B) of the Bombay Tenancy and Agricultural Lands Act is in substance strikingly similar with the provision of section 38-E(1) explanation of the Act. Section 32(1-B) of the Act is quoted as below:

*"32. Tenants deemed to have purchased land on tillers' day:*

*[(1-B) Where a tenant who was in possession on the appointed day and who on account of his being dispossessed before the 1st day of April 1957 otherwise than in the manner and by an order of the Tahsildar as provided in section 29, is not in possession of the land on the said date and the land is in the possession of the landlord or his successor-in-interest on the 31st day of July, 1969 and the land is not put to a non-agricultural use on or before the last mentioned date, then, the Tahsildar shall, notwithstanding anything contained in the said section 29, either suo motu or on the application of the tenant, hold an inquiry and direct that such land shall be taken from the possession of the landlord or, as the case may be, his successor-in-interest, and shall be restored to the tenant; and therefore, the provisions of this*

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*section and sections 32-A to 32-R (both inclusive) shall, insofar as they may be applicable, apply thereto, subject to the modification that the tenant shall be deemed to have purchased the land on the date on which the land is restored to him;*

*Provided that, the tenant shall be entitled to restoration of the land under this sub-section only if he undertakes to cultivate the land personally and of so much thereof as together with the other land held by him as owner or tenant shall not exceed the ceiling area.*

*Explanation In this sub-section, 'successor-in-interest' means a person who acquires the interest by testamentary disposition or devolution on death."]*

*It was argued before the learned Single Judge that although the provision of section 32(1-B) does not provide for any limitation, the remedy has to be exhausted within reasonable time. The learned Single Judge of this Court while dealing with the matter of Shankar M. Pawar vs. Anusayabai @ Ambabai w/o Punja Avhad, reported in 2002(5) Mh.L.J. 328 considering the beneficial rights conferred in favour of the class of tenants has 2002(1) BCJ 231 while turned down similar objection and recorded in paragraph No. 11 of the judgment*

*"11. Section 32(1-B) deals with the beneficial rights in favour of the tenants and provides remedy for enforcement of such rights. The legislature in its wisdom, has introduced the said provision in the statute with the object to give necessary protection to the weaker section of the society. It cannot be forgotten that the law of limitation merely bars the remedy but, it does not destroy the right. At the same time, it is to be borne in mind that the Courts cannot act on principle that every procedure is to be taken as prohibited unless it is expressly provided but should proceed on the converse principles that every procedure is understood to be permissible till it is prohibited by law. In other words, unless remedy provided for enforcement of right is circumscribed by the period of limitation, it is not permissible to import*

*the boundaries upon such remedial measures by way of interpreting the provisions of law as it would amount to legislate upon the statutory provision by the Court which, in fact, is the exclusive jurisdiction of the legislature. Even while interpreting the provisions under the Limitation Act itself, the scope of Limitation Act cannot be extended by implication, and party's right to approach the Court cannot be throttled unless the Limitation Act expressly provides that the right is barred. Any decision in that regard, if required, one can safely refer to the decision of the Division Bench of this Court in the matter of Madhavprasad Kalkaprasad Nagam vs. S.G. Chandavarkar. Certainly it is no part of the duties of the Court to deprive a litigant of the benefit of any exemption from the period of limitation for enforcement of right by importing the words of limitation not found in the statute. It is to be noted that the section 32(1-B) was introduced in the statute in the year 1969 and the legislature being fully conscious about the limitation provided under section 29(1) and yet, after expiry of period of 12 years, the right of restoration of the land was still guaranteed to the tenant under the said provision of law. This clearly discloses the intention of the legislature to ensure the benefit under the said Act to the aggrieved tenants and who were not vigilant in exercising their rights. In other words, while considering the provisions of section 32(1-B), the principle that law comes to the assistance of the vigilant, not to the sleepy has to be ignored."*

*Ratio laid down in the reported judgment squarely applies to the case in hand. Moreover, the interpretation put to provisions of section 32(1)(b) of the Act also can be adopted while interpreting the provisions of section 38-E(1) explanation as both provisions are in substance strikingly similar.*

**10.** *Similar question arose as to whether there is any limitation provided for tendering application under section 84 of the Bombay Tenancy and Agricultural Lands Act, 1948 and the same was considered by the Division Bench of this Court in the case of Ghanshyam-*

*prasad Natwarlal Bhatt vs. Gendalsingh Vakhatsing and others in Special Civil Application No. 764/1955. The Division Bench has observed thus:*

*"You cannot apply limitation by analogy. Limitation either bars a remedy or extinguishes a right of a party and it is unthinkable that any Court would bar a remedy or extinguish a right when the Legislature has not done so by importing the principles of some other statute and drawing analogy from some other provision of law. If there is no limitation provided by the legislature then the only thing that the Tribunal has to do is to permit the application to be made irrespective of passage of time."*

*11. In view of the reasons set out above, it can be said that the Tahsildar who decided the application was justified in entertaining the application presented under section 38-E(1) explanation of the Act by the tenant and directing delivery of possession of land in question in favour of the tenant. The bar of limitation as contended by the petitioner herein cannot be imported and read in the provisions of section 38-E(1) explanation which in fact is not provided by the legislature purposefully. In the absence of any specific provision debarring the remedy after lapse of certain period, the only alternative available to the tenancy authority was to entertain the application and pass appropriate orders in consonance with law. I do not find that tenancy authorities have committed any error in entertaining application and passing orders directing delivery of possession of tenanted property in favour of respondent / tenant. Writ petition is devoid of merit and does not call for any interference. Writ petition therefore stands dismissed. Rule is discharged. In the facts and circumstances of the case, there shall be no order as to costs."*

**5. *Laxman s/o Shankar Bandgar (D) through Lrs. And others Vs. Venkat s/o Rama Bandgar (D) through Lrs. And others*** Reported in 2015 (1) Mh.L.J. 408, Decided on 28.04.2014.

*“10. His further objection is that if the deceased Venkat was claiming to be a tenant and allegedly dispossessed in 1973-74, it took him twenty years to realize this aspect. The said issue could not have been dug up after a passage of twenty years. Such application could have been filed within three years of the cause of action.*

*33. So far as the issue of limitation is concerned, the petitioners have relied upon the reported judgments in the cases of Ramchandra Balwantrao Dubal vs. Dhondiram Tatoba Kadam (supra), Santosh Kumar Shivgonda Patil and ors. vs. Balasaheb Tukaram Shevale and ors. (supra), and Radhu Gokul Gawli died through L.Rs. and ors. vs. Mohan Kishan Gawali died through L.Rs. (supra).*

*39. In para No. 22 of the Mesaji s/o Laxman Ubare's judgment (supra), this Court has held as under-*

*"In scheme of various sections noted above by me, whenever Legislature thought it fit to prescribe period of limitation, the said period has been specifically mentioned. In section 98 only Collector has been enabled to summarily evict a person in unauthorised occupation or wrongful possession. It does not contemplate filing of any application by any party to initiate proceedings under section 98. Thus, it only casts obligation on the Collector to evict such unauthorised or wrongful occupant. The fact of such wrongful or unauthorised occupation may come to knowledge of Collector belatedly through different sources and in various situations. It is therefore obvious that Legislature has only conferred the powers upon the authority to act in furtherance of provisions and for the purposes of 1950 Act to see that its aims and objects are achieved and preserved. No period of limitation therefore has been deliberately prescribed as such fact of unauthorised occupation or wrongful possession may also be deliberately suppressed by the parties from the Collector by adopting various means and measures. When the legislature has vested title in protected tenant on*

*tiller's day against the wishes of landholder; it is obvious that its design to advance the said cause, to protect or preserve that title from unscrupulous influences whenever it comes across such instances cannot be allowed to be defeated by such technical pleas. I find the absence or non-prescription of any period of limitation in section 98 is deliberate and in tune with that object."*

*40. As such, I am in respectful agreement with the above observations from the judgment of this Court in the case of Mesaji Laxman Ubare (supra). In my view when section 98 does not prescribe any limitation and looking to the scheme of the Act of 1950, the intent and object of the legislature is quite clear. When an agriculturist has been wrongfully dispossessed and a person is in unauthorised occupation or wrongful possession of the said land, law has been empowered to summarily evict such a person who is in wrongful possession. I find that the legislature does not intend to fetter the scope and ambit of proceedings under section 98 with any limitation. The non-prescription of any limitation in section 98 is, therefore, to be construed to mean a specific object which the legislature intends to achieve. In these circumstances, I respectfully disagree with the view expressed in the case of Radhu Gokul Gawli died through L.Rs. and ors. (supra) to the extent of 'reasonable time'.*

*41. Similarly, this Court in the case of Limbaji Shankar Munde (deceased through L.Rs.) considered whether there was any limitation provided in tendering an application under section 84 of the Bombay Tenancy Act, 1948. Reliance was placed on the Division Bench judgment of this Court in the case of Ghanshyamprasad Natwarlal Bhatt vs. Gendalsingh Vakhatsing and others in Special Civil Application No. 764/1955. The observations of the Division Bench are as follows:-*

*"You cannot apply limitation by analogy. Limitation either bars a remedy or extinguishes a right of a party and it is unthinkable that any Court would bar a remedy or extinguish a right*

*when the Legislature has not done so by importing the principles of some other statute and drawing analogy from some other provision of law. If there is no limitation provided by the legislature then the only thing that the Tribunal has to do is to permit the application to be made irrespective of passage of time."*

*Section 84 of the Act of 1948 is akin to section 98 of the Act of 1950.*

*42. In view of the above observations of the Division Bench of this Court in Ghanshyamprasad Natwarlal Bhatt (supra), Limbaji Shankar Munde (supra) and Mesaji s/o Laxman Ubare, I find it appropriate to follow the view taken in the aforesaid three judgments and, therefore, conclude that section 98 of the Act of 1950, cannot be fettered with limitation. As such, I conclude that the application preferred by the applicants under section 98 of the Act of 1950 was maintainable and has been correctly so held by the Deputy Collector, Land Reforms and the Maharashtra Revenue Tribunal, Aurangabad."*

**6. *Ganesh and Anr. Vs. Khushalrao and Ors.* Reported in (2023) SCC OnLine Bom, 2623, Decided on 05.12.2023.**

*"3. We are called upon to answer an issue referred to us which is as follows:*

*"Whether any period of limitation is applicable for preferring an application under Section 98 of Hyderabad Tenancy and Agricultural Lands Act, 1950 (hereinafter referred to as Act)?"*

*23. We have already referred to the three judges bench order of the Supreme Court in the matter of Uttam Namdeo Mahale (supra) as well as Division Bench judgment of our High Court in the matter of Ghanshyamprasad Natwarlal Bhatt (supra). It is impermissible to read anything in statute which is not provided. While interpreting Section 98 literal interpretation has to be adopted. The literal inter-*

*pretation does not permit us to read the reasonable period into the provision. We may refer to judgment rendered by the Supreme Court in the matter of B Prem Anand v. Mohan Goykal, to demonstrate the rules of literal or strict construction. The following paragraphs are relevant:*

*17. No doubt in some exceptional cases departure can be made from the literal rule of the interpretation, e.g. by adopting a purposive construction, Heydon's mischief rule, etc. but that should only be done in very exceptional cases. Ordinarily, it is not proper for the Court to depart from the literal rule as that would really be amending the law in the garb of interpretation, which is not permissible vide J.P. Bansal v. State of Rajasthan (2003) 5 SCC 134: AIR 2003 SC 1405, State of Jharkhand v. Govind Singh. It is for the legislature to amend the law and not the Court (vide State of Jharkhand v. Govind Singh).*

*19. In Shiv Shakti Co-operative Housing Society v. Swaraj Developers (2003) 6 SCC 659 AIR 2003 SC 2434, this Court observed:*

*It is a well settled principle in law that the Court cannot read anything into a unambiguous. A statute is an edict of the legislature. The language employed in a statute is the determinative factor of legislative intent.*

*24. The literal rule of interpretation really means that there should be no interpretation. In other words, we should read the statute as it is, without distorting or twisting its language. We may mention here that the literal rule of interpretation is not only followed by Judges and lawyers, but it is also followed by the lay man in his ordinary life. To give an illustration, if a person says "this is a pencil", then he means that it is a pencil; and it is not that when he says that the object is a pencil, he means that it is a horse, donkey or an elephant. In other words, the*

*literal rule of interpretation simply means that we mean what we say and we say what we mean. If we do not follow the literal rule of interpretation, social life will become impossible, and we will not understand each other. If we say that a certain object is a book, then we mean it is a book. If we say it is a book, but we mean it is a horse, table or an elephant, then we will not be able to communicate with each other. Life will become impossible. Hence, the meaning of the literal rule of interpretation is simply that we mean what we say and we say what we mean.*

*24. Adopting literal and strict interpretation, we disapprove the proposition that even when no limitation is provided in Section 98 of the Act, it is to be construed as reasonable period and the reasonable period would be three years. We approve the reasons assigned by the learned Single Judge (Justice B.P. Dharamadhikari J. as he then was) in the matter of Mesaji Laxman Ubare (supra) from paragraph no. 22. To avoid the repetition, we reiterate that it is a sound reasoning.”*

7. Learned counsel for petitioners relying upon above mentioned judgments, prayed to allow writ petition.

8. Per contra, the learned senior counsel for respondent submits that in view of the fact that the respondent attained majority on 17.07.1977, the application ought to have been filed by the tenants within a period of two years. Respondent denied that the petitioners were declared as protected tenants and therefore, on the ground of delay, and the respondent disputed the position that present petitioners were tenants, therefore learned senior counsel for the respondent

prayed to dismiss the petition. Learned Senior Counsel for respondent has relied upon the following judgments :-

1. ***Vidarbha Maharogi Seva Mandal Vs. The Member, Maharashtra Revenue Tribunal, Nagpur & Ors.*** Reported in 2016 (3) AIR BomR 615, Decided on 23.02.2016. Particularly in para 30 to 33 it has been stated that-

*“30. The entitlement of a tenant to purchase the land from his landlord under Sub-section (1) of Section 41 and to obtain a certificate of purchase under Sub-section (8) of Section 43 in Chapter III of the said Act. depends upon the volition to exercise such right, which, of course, remains subject to the provisions of Sections 42 to 44 therein. The right to purchase the land need to be exercised by making an offer of purchase price under Sub-section (1) of Section 43 and to apply for determination of purchase price under Sub-section (2) of Section 43, in case where the landlord refuses or fails to accept such offer within a period of three months. Merely because there is no time-limit prescribed in the said Act for the tenant either for making such an offer, or to apply to the Tribunal for determination of purchase price, it does not follow that the tenant can make such offer or apply for determination of purchase price at any time during the lifetime or after an inordinate delay. In the absence of there being any time-limit prescribed, the tenant will have to follow the procedure of obtaining a certificate of purchase under Sub-section (8) of Section 43 of the said Act, within a reasonable time. What is the reasonable time, shall depend upon the facts and circumstances of each case and no straitjacket formula can be prescribed.*

*31. Sub-section (14A) of Section 43 and Sub-sections (5) and (6) of Section 49A of the said Act provide for the consequences of non-fulfilment of or failing to comply with the procedure prescribed for retaining the title or to make the title indefeasible. If the tenant fails to obtain a certificate of purchase under Sub-section (8) of Section 43 within a reasonable time, the sale becomes ineffective or defeasible and shall result in the consequences deemed surrender of tenancy by the ten-*

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ant to the landlord under Section 20 of the said Act, and the tenant will no longer continue to be the owner of the land in his possession. If such view is not taken, then the provision of Sub-section (14A) of Section 43 and Sub-sections (5) and (6) of Section 49A of the said Act would become redundant.

**32.** *If the tenant in possession of the land loses his title or his title gets defeated on account of failure to obtain a certificate of purchase under Sub-section (8) of Section 43 of the said Act, the provision of Section 120 regarding summary eviction under the said Act may get attracted. The provision of Section 120 of the said Act is, therefore, reproduced below:*

*"120. Summary eviction. Any person unauthorisedly occupying or wrongfully in possession of any land,*

*(a) the transfer of which either by the act of parties or by the operation of law is invalid under the provisions of this Act,*

*(b) the management of which has been assumed under the said provisions, or*

*(c) to the use and occupation of which he is not entitled under the said provisions and the said provisions do not provide for the eviction of such person, may be summarily evicted by the Collector after such inquiry as he deems fit."*

*Though by virtue of Sub-section (1) of Section 46 of the said Act or by virtue of Sub-section (1) of Section 49A of the said Act, the tenant becomes the statutory owner of the land under his personal cultivation as on 1st of April, 1961 or 1st of April, 1963, as the case may be, if such transfer becomes invalid on account of failure to obtain a certificate of purchase under Sub-section (8) of Section 43, the provision of clause (a) of Section 120, reproduced above, gets attracted, and the possession of such tenant becomes unauthorised and wrongful. If the management of such land is assumed by the State Government in exercise of its power under Section 21 of the said Act, the provision of clause (b) of Section 120 would get attracted, and in both these eventualities, the tenant is liable to*

*be summarily evicted under clause (c) of Section 120 of the said Act.*

**33.** *In view of above, it follows that merely because the tenant becomes statutory owner by virtue of Sub-section (1) of Section 46 or Sub-section (1) of Section 49A, that by itself will not be sufficient to protect him from eviction under Section 120 of the said Act, unless his title becomes indefeasible by obtaining certificate of purchase under Sub-section (8) of Section 43 of the said Act. In order to get protection, the tenant or his successor-in-interest must be armed with the weapon in the form of such certificate. The undisputed factual position in this case is that till this date, the tenant or his legal heirs have not obtained the certificate of purchase under Sub-section (8) of Section 43 of the said Act, to perfect the title or to make it indefeasible. Hence, they are not entitled to protection from eviction under Section 120 of the said Act."*

**2. *Santoshkumar Shivgonda Patil And Others Vs. Balasheh Tukaram Shevale And Others*** Reported In (2009) 9 SCC, 352, Decided On 02.09.2009. Particularly in para 10 it has been stated that-

*"10. Recently, in State of Punjab v. Bhatinda District Coop. Milk Producers Union Ltd. while dealing with the power of revision under Section 21 of the Punjab General Sales Tax Act, 1948, it has been held: (SCC p. 367, paras 17-19)*

*"17. A bare reading of Section 21 of the Act would reveal that although no period of limitation has been prescribed therefor, the same would not mean that the suo motu power can be exercised at any time.*

*18. It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors.*

*19. Revisional jurisdiction, in our opinion, should ordinarily be exercised within a period of three years having regard to the purport in terms of the said Act. In any event, the same should not exceed the period of five years. The view of the High Court, thus, cannot be said to be unreasonable. Reasonable period, keeping in view the discussions made hereinbefore, must be found out from the statutory scheme. As indicated hereinbefore, maximum period of limitation provided for in sub-section*

*(6) of Section 11 of the Act is five years.”*

**3. *Mohamad Kavi Mohamad Amin Vs. Fatmabai Ibrahim***

Reported in (1997) 6 Supreme Court Cases 71, Decided on 22.08.1996.

*“2 ..... In this connection, on behalf of the appellant reliance was placed on a judgment of Justice S.B. Majmudar (as he then was in the High Court of Gujarat) in State of Gujarat v. Jethmal Bhagwandas Shah<sup>1</sup> disposed of on 1-3-1990, where in connection with Section 84-C itself it was said that the power under the aforesaid section should be exercised within a reasonable time. This Court in connection with other statutory provisions, in the case of State of Gujarat v. Patil Raghav Natha and in the case of Ram Chand v. Union of India<sup>3</sup> has impressed that where no time-limit is prescribed for exercise of a power under a statute it does not mean that it can be exercised at any time; such power has to be exercised within a reasonable time. We are satisfied that in the facts and circumstances of the present case, the suo motu power under Section 84-C of the Act was not exercised by the Mamlatdar within a reasonable time. Accordingly, the appeal is allowed. The impugned orders are set aside. No costs.”*

**4. *Radhabai Balkrishna Deshpande And Another Vs. Babu Dhondu Shewale deceased by L.Rs. Bhika Dhondu Shewale And Others*** Reported in 2001(1) Mh.L.J., 629, Decided on 13.06.2000.

*“15. Apart from the aforesaid, what is relevant to note is that in the present case the transaction in question took place in the year, 1964 and it is after lapse of about 15 years that the authority chose to initiate suo motu proceedings under section 84C of the Tenancy Act. Learned Counsel for the petitioner is right in relying on the decision of the Supreme Court in the case of Mohamad Kavi Mahamad Amin vs. Fatmabai Ibrahim, (1997) 6 SCC 71 (supra), which is squarely applicable to the facts of the present case. The Apex Court has held that although no limitation is provided to initiate action under section 84C, yet the authority should act within a reasonable period. The Apex Court in the said decision was pleased to hold that the proceedings initiated by the authorities after a lapse of nine months was wholly beyond reasonable period and, therefore without the authority of law. In the present case, the action has been initiated after a lapse of 15 years, which by no standards can be said to be a reasonable period. Consequently, the petition should succeed on this short ground that the proceedings under section 84C of the Tenancy Act having been initiated after an unreasonable period cannot be sustained in law.”*

9. After going through the record and submissions of the learned counsel for the petitioners and learned counsel for respondent, it is an admitted fact that there is a specific denial on the part of the respondents that the petitioners were never declared as a protected tenant and the petitioners only made submissions to that effect. But, no any record was placed before the authority, and only on the presumptions, the learned Tahsildar and the Sub-Divisional Officer has passed an or-

der, but the fact remains that record about the tenancy was not placed before the authority and a mere contention in the application does not confer the tenancy upon the respondent. In view of the fact that the respondent has specifically denied the same, therefore, once the petitioner had not proved about the tenancy then the question of fixing the price and issuance of sale certificate does not arise at all.

10. Further, the application filed was only for fixing up price and for issuance of sale certificate on 27.05.2004, whereas, the land owner attains the majority on 17.07.1977 and therefore, application itself is hopelessly time barred and both the authorities have not considered the same. Therefore, learned Maharashtra Revenue Tribunal has rightly set-aside the order passed by the Learned Sub-Divisional Officer.

11. It is an admitted fact that the application was filed by the petitioner first time on 27.05.2004, when, the respondent had become major on 17.07.1977 itself. Despite the admitted fact that application was filed after a long period, the reason for not filing the application was not explained, and despite the specific denial from respondent with respect to tenancy, the Tahsildar entertained the application. Therefore application filed by the petitioner on 27.05.2004 was not within reasonable period. In view thereof, the order passed by the Maharashtra Rev-

enue Tribunal doesn't require any interference and accordingly, the Writ Petition stands **dismissed**. No order as to costs.

**12.** The learned counsel for petitioner seeks continuation of the interim relief for a period of 6 weeks. Considering the fact that the interim relief is in operation since 03.09.2024, in the interest of justice, the interim relief is continued for a period of 6 weeks.

Rule is hereby **discharged**. There shall be no order as to costs.

( SIDDHESHWAR S. THOMBRE, J.)