Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6834 OF 2015

SAYALI DEEPAK UPASANI

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Date: 2026.10.05 15:44:14 +0530

Maya Ganu Kadu Since Deced. Thr. Lrs and Others ... Petitioners

V/s.

Maruti Balya Thakur and Others ... Respondents

WITH

WRIT PETITION NO. 6705 OF 2015

WITH

WRIT PETITION NO. 6709 OF 2015

WITH

WRIT PETITION NO. 6707 OF 2015

WITH

WRIT PETITION NO. 6708 OF 2015

Mr. Rahul Madam More with Mr. Sumedh S. Gaikwad, for Petitioners in all petitions.

Mr. Milind Parab i/b Milind Parab and Associates, for Respondent nos. 1A to 14, for Respondents.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 05, 2026

P.C.:

1. The challenge in the present petition arises from an order passed by the Agricultural Lands Tribunal in a proceeding stated to have been filed under Section 32G of the Bombay Tenancy and Agricultural Lands Act, 1948 ("the BTLA Act").

2. It is not in dispute that the petitioners are the representatives of the original applicants. It is also not in dispute that the original applicants, during their lifetime, did not challenge the order dated 25 May 1978. The Appeal challenging the said order was filed by the representatives of the original applicants only on 21 April 2011. Thus, there is a delay of about 33 years in challenging the order dated 25 May 1978. This delay is very long and the petitioners were required to give a proper and acceptable explanation for not taking any steps for such a long period. The Court has to consider whether the reason given by the petitioners is sufficient to explain the entire period of delay and whether the nature of the challenge is such that the delay can be ignored.

3. Apart from the reasons stated in the application for condonation of delay, namely, that the petitioners did not have knowledge of the impugned order, a issue has also been raised in the petition. According to the petitioners, the application under Section 32G could not have been filed for reopening the earlier proceedings which had concluded under Section 32M. It is submitted that the order dated 25 May 1978 suffers from

material illegality. The submission is that when the earlier proceedings had reached a final stage and a certificate under Section 32M had been issued, there was no authority in law to start another proceeding under Section 32G in respect of the same land and the same rights. On this basis, it is contended that the illegality is of such nature that the authorities under the BTLA Act ought to have interfered with the order even though the Appeal was filed after a very long period.

4. It is pointed out that the original landlord had admittedly died in the year 1966. However, the proceedings which resulted in the order dated 25 May 1978 were initiated only in the year 1978. Thus, on the date when the proceedings were initiated, the original landlord was dead. It is also a matter of record that he was not alive even when those proceedings came to an end. On this basis, it is submitted that the proceedings were against a person who was no longer alive and the order dated 25 May 1978 could not have been legally passed. The petitioners accordingly submit that the order is required to be quashed and set aside and that the question of delay should not come in the way because the alleged defect goes to the root of the proceedings.

5. Ordinarily, the contention raised by the petitioners would deserve consideration. The usual proceedings under Section 32G involve determination of the rights of the tenant and the landlord. There is normally a contest between the person

claiming to be the tenant and the landlord who claims rights in the agricultural land. Therefore, if the landlord dies before initiation of such proceedings, or dies during the pendency of the proceedings and his representatives are not brought on record where their presence is necessary, the validity of the subsequent proceedings can become doubtful. In an appropriate case, an order passed against a dead person may be treated as void and such a defect can be raised even after considerable time, depending upon the facts and circumstances of the case.

6. However, the facts of the present case stand on a different footing. The Court cannot consider the death of the landlord separately from the nature of the proceedings which were actually conducted and the rights which had come to an end before the Section 32G proceedings were initiated. In the present case, it is not disputed that the proceedings under Section 32G and the issuance of the certificate under Section 32M were concluded between the persons who were stated to be in possession, as recorded in the order dated 25 May 1978. The dispute in those proceedings was therefore not a continuing dispute between the landlord and the tenant in the ordinary sense. The proceedings were concerned with the rights of the persons who were in possession and with the question as to in whose favour such rights were to be recognised.

7. The position becomes clear from the fact that the rights, title and interest of the landlord had ceased to exist on issuance

of the certificate under Section 32M. That event had taken place much before the initiation of the subsequent proceedings under Section 32G. Therefore, when the Section 32G proceedings were initiated, there was no subsisting right of the original landlord which was being adjudicated in the same manner as in an ordinary landlord and tenant dispute. The contest was essentially between the predecessor of the present petitioners and the predecessor of the contesting respondents. The landlord was not the person whose surviving proprietary right was being determined in those proceedings.

8. For this reason, the mere fact that the original landlord had died before the initiation or conclusion of the proceedings cannot, in the facts of the present case, result in the entire proceedings becoming void. The Court has to see what was the actual nature of the proceedings and what rights were being considered in those proceedings. If the petitioners were of the view that there was any illegality, irregularity or procedural defect in the proceedings which resulted in the order dated 25 May 1978, such grievance was required to be raised within the period prescribed under the statute. A party cannot keep such grievance pending for decades and thereafter seek to reopen the entire matter merely by describing the order as illegal.

9. The only explanation given by the petitioners in the application for condonation of delay is that the representatives of the original applicants had no knowledge of the order dated 25

May 1978. This explanation has to be considered in the background of the conduct of the original applicants. It is not disputed that the persons who were parties to the proceedings during their lifetime did not challenge the order dated 25 May 1978. They had sufficient opportunity during their lifetime to question the order if they were aggrieved by it. They did not do so.

10. The order dated 25 May 1978 also records that the concerned persons had no objection to the order being passed in favour of the predecessors of the contesting respondents. This part of the order remained unchallenged throughout the lifetime of the original applicants. If the original applicants had disputed the proceedings or the order passed therein, some material showing such objection or challenge could reasonably have been expected. No such material has been brought on record.

11. In these circumstances, the subsequent representatives cannot simply state that they were unaware of the order and thereby explain a delay of 33 years. The rights in the property and the proceedings relating to those rights do not remain unknown indefinitely merely because the successors claim that they personally had no knowledge. The conduct of the predecessor in title is relevant while considering the conduct of the successor in title. The knowledge and conduct of the predecessor cannot be ignored when the successor later seeks to challenge the same transaction or order.

12. The submission that the representatives had no personal knowledge cannot explain the entire period of 33 years. The petitioners have not shown any satisfactory reason as to why the original applicants did not challenge the order during their lifetime. The long silence of the original applicants is a material circumstance which cannot be overlooked while considering the application for condonation of delay.

13. In my opinion the authorities under the Act were justified in rejecting the application for condonation of delay of 33 years in filing the Appeal. The authorities considered the explanation offered by the petitioners and did not find it sufficient. The explanation was essentially based upon alleged lack of knowledge of the impugned order. In the facts of the present case, that explanation does not satisfactorily account for the extraordinary period of delay.

14. The Court also has to keep in mind that condonation of delay is not a matter of right. The party seeking such relief has to show sufficient cause for the delay. The longer the delay, the greater is the need for a satisfactory explanation covering the period of delay. Here, the petitioners have not been able to explain why the order remained unchallenged for about 33 years. The fact that the original applicants did not challenge the order during their lifetime is an important circumstance against the petitioners. The objection concerning the death of the original landlord also does not change this position. For the reasons

discussed, in the peculiar facts of the present case, the death of the landlord did not make the entire proceedings under Section 32G void. At the highest, the petitioners are alleging an illegality or procedural defect in the manner in which the proceedings were conducted. Such a grievance could not have been kept aside for 33 years and thereafter raised as a ground to overcome the statutory period of limitation.

15. In my opinion no interference with the impugned order is called for. The authorities have considered the material placed before them and have rightly refused to condone the extraordinary delay. The petitioners have not established sufficient cause for condoning the delay of 33 years. They have also not established that the order dated 25 May 1978 is void in such a manner that the question of limitation can be ignored.

16. The challenge to the order dated 25 May 1978 is not capable of being entertained after such an unexplained and prolonged period. The conduct of the original applicants, the nature of the proceedings, the effect of the certificate issued under Section 32M and the absence of any timely challenge are all material circumstances which support the conclusion reached by the authorities.

17. In view of the above discussion and findings, the petitions are disposed of. No relief can be granted to the petitioners in respect of the order dated 25 May 1978.

(AMIT BORKAR, J.)