Vivekanand

VIVEKANAND RAJENDRA BONDE
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5852 OF 2019

Laxman Mahadhu Saraf
Through L Hers Ravindra
Laxman Saraf … Petitioner

V/s.

Gurunath Shankar Waware
Ghrough Legal Heris And Ors … Respondents

Mr. R. D. Suryawanshi with Mr. Suraj N. Naik, for Petitioner.

Mr. Sandesh K. Jadhav i/b Amanchi Legal and Co. for Respondent nos. 1(a) – 1(d), 2,3, 5(a) to 5(c), 6 (b) , 6 (c).

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 12, 2026

P.C.:

1. The present Petition arises out of proceedings under Section 32G of the Bombay Tenancy and Agricultural Lands Act, 1948. This is the third round of litigation between the same parties before the tenancy authorities. In the present round, instead of directing the issuance of a certificate under Section 32G of the Act, the ALT directed that the names of the Respondents, who were the appellants before it, be entered in the revenue records. The said order has been confirmed by the authorities under the Act. Being aggrieved by the orders passed by the authorities, the Petitioners have approached this Court by filing the present Petition.

2. The dispute essentially concerns the respective shares of the legal heirs of the original tenant. In Special Civil Suit No. 293 of 1992, the Civil Court passed a preliminary decree declaring that each of the three daughters was entitled to a one-fourth share in the property, while the son, who is the predecessor of the Petitioner, was also held entitled to a one-fourth share. The execution proceedings arising out of the said decree are pending. Since the property in question is agricultural land, the absence of a final decree does not prevent the preliminary decree from being executed in accordance with law.

3. It is not in dispute that the preliminary decree dated 16 September 2003 has attained finality. The respective shares of the legal heirs of the original tenant have, therefore, been determined by a competent Civil Court. In these circumstances, in my opinion, the tenancy authorities ought to have taken note of the said decree and directed the issuance of a certificate under Section 32G jointly in favour of the three daughters and the son, specifying their respective one-fourth shares. Merely directing the entry of their names in the revenue records would not adequately address the issue arising in the proceedings under Section 32G of the Act. The order passed by the ALT, therefore, requires modification to the extent indicated above. In my opinion, the following order would meet the ends of justice.

4. The judgment and order dated 22 September 2003 passed by the ALT, Bhiwandi, in respect of the lands bearing Survey Nos. 22/3, 22/7, 23/2, 48/31 and 49/27, situated at Mouje Kamatghar, is modified. The ALT shall issue a certificate under Section 32G of

the Act jointly in favour of the three daughters and the son, granting each of them a one-fourth share in the said lands. The names of the beneficiaries are Yesubai Mhatre, Taibai Sabale, Laxman Saraf and Mankubai. Upon issuance of the certificate under Section 32G, it shall be open to the parties to apply for the issuance of certificates under Section 32M of the Act. If any such proceedings are initiated, the authorities under the Act shall dispose of the same within three months from the date of filing of the respective proceedings.

5. The Petition stands disposed of.

(AMIT BORKAR, J.)