IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9727 OF 2021

SAYALI DEEPAK UPASANI

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Date: 2026.10.12 18:30:44 +0530

Sakharam Rama Patil … Petitioners

V/s.

Shyamlal Hariram Thr. His Constituted Power of Attorney Holder S. M. Murve and Others … Respondents

Mr. R. M. Haridas with Khushi R. i/b Ajay Patil, for Petitioners.

Ms. S. S. Jadhav, AGP for State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 12, 2026

P.C.:

1. The present Petition arises from proceedings started under Section 32G of the Bombay Tenancy and Agricultural Lands Act. The Petitioner claims that he is protected as a tenant under the said Act. The purpose of proceedings under Section 32G is to determine the purchase price of the land which a tenant is entitled to purchase under the tenancy law. By an order dated 8 May 2012, the Tahsildar allowed the application filed by the Petitioner and fixed the purchase price of the land under Section 32G of the Act. However, the Sub Divisional Officer, by an order dated 4 June 2013, allowed the appeal and set aside the order passed by the Tahsildar. The main reason for doing so was that

the land in question had been declared as evacuee property and was stated to be governed by the Evacuee Property Act, 1948. The Maharashtra Revenue Tribunal also confirmed the order passed by the Sub Divisional Officer. The Petitioner has, therefore, approached this Court by filing the present Petition.

2. This Court had permitted the Petitioner to serve Respondent No. 1 by publishing a notice in the newspaper. The Petitioner has filed an affidavit of service stating that the notices were published as directed by this Court. In spite of such publication, nobody has appeared on behalf of Respondent No. 1. The matter is, therefore, considered on the basis of the material available on record and the submissions made by the appearing parties.

3. From the material available on record, it appears, at least at the first view, that the Petitioner claims that he was a tenant of the land even before the Evacuee Property Act came into force. If this claim is correct, the authorities were required to examine whether the tenancy rights claimed by the Petitioner continued to have protection under the tenancy law, or whether such rights were affected by the provisions of the Evacuee Property Act or the Ordinance relating to evacuee property. This question could not have been decided only by observing that the land had been declared as evacuee property. The authorities were required to examine the relevant provisions of both the laws and consider how they operate in relation to each other. The tenancy

legislation was enacted as a social reform measure, with the object of protecting tenants and regulating their rights in agricultural lands. Therefore, the claim of the Petitioner required consideration in the light of the object and provisions of the tenancy law, as well as the provisions governing evacuee property. Unless this question was examined, it would not be possible to decide whether the Petitioner was entitled to the benefit claimed by him under Section 32G of the Bombay Tenancy and Agricultural Lands Act.

4. The main question which the authorities were required to decide was whether the land in question was governed by the provisions of the Evacuee Property Act, 1948, and, if so, what effect those provisions would have on the tenancy rights claimed by the Petitioner. The authorities were required to examine whether the declaration of the land as evacuee property was sufficient to deny the benefit of the tenancy law to the Petitioner, or whether his claim required separate consideration in view of the nature and timing of the tenancy claimed by him. This question goes to the root of the dispute because, unless the effect of the two laws on the Petitioner's alleged tenancy rights is properly determined, it would not be possible to decide whether the purchase price could lawfully be fixed under Section 32G. The orders passed by the Sub Divisional Officer and the Maharashtra Revenue Tribunal do not adequately resolve this issue. The matter, therefore, requires reconsideration by the competent authority.

5. For this reason, the impugned judgment and order passed by the Maharashtra Revenue Tribunal, as well as the order passed by the Sub Divisional Officer, are set aside.

6. The matter is remanded to the Sub Divisional Officer for fresh consideration. The Sub Divisional Officer shall examine whether the land in question is governed by the provisions of the Evacuee Property Act, 1948, and determine the effect of those provisions on the tenancy rights claimed by the Petitioner under the Bombay Tenancy and Agricultural Lands Act. The Sub Divisional Officer shall consider the relevant statutory provisions, the material available on record, and the rival claims, and shall record clear findings on these issues in accordance with law. The question shall be decided on its own merits, without treating the earlier orders as conclusive on the issues which are now required to be reconsidered. Thereafter, the Sub Divisional Officer shall pass an appropriate order in accordance with law.

7. The petition is disposed of.

(AMIT BORKAR, J.)