

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6128 OF 2024

Vinayak Vasudev Tilak Decd.

...Petitioner

Versus

The State of Maharashtra Thr. Tahsildar And Ors.

...Respondents

WITH

WRIT PETITION NO. 12642 OF 2024

WITH

WRIT PETITION (ST) NO. 10666 OF 2024

WITH

WRIT PETITION NO. 12671 OF 2024

Mr. Narayan G. Rokade a/w Mrunmai K. Rokade, Siddharth Ghodke, Swapnil Kalokhe, Ankita Ugalmugale, Tribhuvan Sharma, Ramchandra Wagh, for the Petitioner in WP/6128/2024 with WP/12671/2024.

Adv. S. G. Karandikar a/w Shashank Mangle, Harshad Sathe, Saurabh Butala, Aishwarya Hinge, Manvi Sharma, Shubham Gangan, Siddesh Bane and Pranil Vichare, for the Respondent Nos.3, and 11 to 14 in WP/6128/2024 and for Respondent Nos. 1, 3 to 6 in WP/12642/2024.

Ms. Sulbha Chipade, Addl. G. P. for the State, in WP/1267/2024.

Mr. P. V. Nelson Rajan, Addl. G .P. for the State in WP/6128/2024.

Mr. Bapusaheb Dahiphale, Addl. G .P. for the State in WP/10666/2024.

Ms. S. R. Crasto, Addl. G .P. for the State in WP/12642/2024

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : APRIL 2, 2026

Oral Judgement:

1. Rule. Rule is made returnable forthwith by consent of the parties, and is taken up for final hearing.

Context and Factual Background:

2. The challenge in this Writ Petition is to an order dated November 30, 2023, passed by the Maharashtra Revenue Tribunal (“**MRT**”), which allowed a revision sought by the Respondents, reversing an order of the Collector, which had held the Petitioners to be entitled to be landowners of the property in question (“**Subject Property**”).

3. The factual matrix falls in a rather narrow compass. In 1958, one Mr. Sadashiv Datar (“**Datar**”) was originally granted a certificate as a certified landlord with holding of land of a size below economic holding under Section 88C of the Bombay Tenancy and Agricultural Lands Act, 1948 (“**the Act**”). This certificate was the subject matter of litigation. Eventually, the Supreme Court, by an order dated October 7, 1985 (“**SC Order**”) dismissed a Special Leave Petition and upheld the grant of the 88C Certificate in favour of Datar.

4. Thereafter, Datar was directed to initiate proceedings under Section 33B of the Act, which entitles a landlord holding an 88C Certificate, to seek termination of tenancy on the premise of *bona fide* need of the land for personal cultivation. Under Section 33B, such an application is required to be filed within three months from the receipt of the 88C Certificate. Datar filed proceedings under Section 33B of the Act in 1990. After the 88C Certificate was confirmed with the passing of the SC Order, the Tahsildar had closed the Section 88C proceedings on February 13, 1989.

5. Datar expired on August 17, 1991. He had no immediate family, apart from his two sisters, namely, Lilabai Tilak (“**Lilabai**”), who passed away on August 22, 1991, and Kamlabai Athavale (“**Kamlabai**”), who passed away on February 22, 2001.

6. The heirs of Lilabai (“**Tilaks**”) and the heirs of Kamlabai (“**Athavales**”) are the ones in whose name the captioned proceedings are being prosecuted today. The Petitioners claim to have an interest in the Subject Property, and claim a statutory entitlement to pursue proceedings under Sections 33B of the Act that had been initiated by Datar way back in 1990. The Petitioners had filed proceedings under Section 33B of the Act on July 4, 2017, which were rejected, against

which they filed an Appeal in 2019, which also came to be rejected by the Tahsildar and the Agricultural Land Tribunal, on the premise that being heirs of the late Datar, the right to terminate the tenancy could not be inherited by them, and that right, based on the personal requirement of Datar to cultivate the land, abated upon the demise of Datar.

7. Thereafter, the Collector, who considered a further appeal, set aside that order, granting possession of the Subject Land to the Petitioners on the premise that once the SC Order upheld the grant of the 88C Certificate, the tenancy rights of the tenant had come to an end. It is a revision of this order sought by the tenants that led to the Impugned Order being passed.

8. In 2002, the offspring of Kamlabai and Lilabai i.e. the generation before the Petitioners, had moved an application, purportedly in the proceedings that had been filed by Datar in 1990, under Section 33B of the Act ("**1990 Application**"). They had sought to continue the said proceedings on the premise that they had inherited the right to do so. Whether proceedings under Section 33B would abate upon the death of Datar or whether they could be revived subsequently in this manner, is a question that has remained at large, since the said

application seeking to continue the old proceedings has not been dealt with till date.

9. According to the Petitioners, had their parents' application to revive and continue the 1990 Application been considered in time, they could have been held to be landlords, with an entitlement to terminate the tenancy under Section 33B of the Act, considering that it was an entitlement pursuant to the 88C Certificate.

Analysis and Findings:

10. It is against this backdrop that the Learned Advocates for the parties have been heard at some length, and with their assistance, the contents of the record have been gone into.

11. I am unable to accept the prayer in the Petition seeking to quash and set aside the Impugned Order passed by the MRT for the following reasons :-

A] The scheme of the interplay between Section 88C and Section 33B of the Act is apparent from a plain reading of the provisions. Section 88C excludes the application of the provisions of Sections 32 to 32R of the Act, but subject to the provisions of Section 33A, 33B and 33C of the Act;

B] Section 33B of the Act enables a landlord with an 88C Certificate to seek termination of the agricultural tenancy on the premise that the landlord requires such land for *bona fide* personal cultivation. Such an application had indeed been preferred by Datar in 1990. However, he passed away in 1991. His siblings Kamlabai and Lilabai, through whom the Petitioners claim, passed away in 1991 and 2001, respectively;

C] The Petitioners filed the application to continue Datar's Section 33B Application in July 2002. The Petitioners neither heard from the State about this application nor did they pursue their perceived entitlement to continue Datar's Section 33B Application by seeking a writ of mandamus or even by way of general follow up;

D] While the Petitioners contend that their parents had filed an application in July 2002 to revive and continue with Datar's Section 33B Application without abatement, and nobody had ruled upon it, it is noteworthy that even those applicants had passed away, and it is not the Petitioners' case that they too filed an application to revive and continue their parents' application

without abatement, so that they could pursue that application to continue Datar's Section 33B Application without abatement;

E] If the Petitioners believe that they had an interest flowing from the pendency of the application made by their parents in July 2002, there is nothing on record to indicate that those applicants or these Petitioners pursued any of their rights – for example, by filing a writ of mandamus to direct that such application be considered;

F] That apart, Section 33B of the Act, on the face of it, indicates that the landlord would need to demonstrate his own need for personal cultivation of the land, and if such requirement is demonstrated, the termination under Section 33B would follow. Datar passed away in 1991, and his personal need for cultivation went away. It is through an application filed by the offspring of Datar's sisters that continuation of Datar's 33B Application was sought;

G] The application by the Petitioners themselves under Section 33B is sought to be relied upon to continue a flow of entitlement of the Petitioners and the pendency of the 2002 Application filed by them.

H] In my opinion, the question of whether the desire for personal cultivation by a landlord certified under Section 88C (as being of a size below economic holding) can be inherited along with the land, or whether the desire to cultivate the land dies with the original landlord who had such desire does not even have to be answered in this case because of a material and significant development in 2013. The Petitioners themselves sold all their right, title and interest in the Subject Land on an “as is where is” basis to third parties. With it, their desire for “personal cultivation” came to an end;

I] Indeed, the Petitioners had disputes with the third parties on the transaction to sell the Subject Land. In a subsequent transaction in 2017, the Athavales sold their interest in the Subject Land yet again to another third party. In fact, while these proceedings have been filed and are being pursued in the name of the Athavales, it is such third party transferee who is the constituted attorney of the Athavales who is in conduct of the proceedings;

J] Section 33B of the Act entails a specific timeframe within which the landlord may initiate proceedings for termination of the

tenancy – three months from the certification under Section 88C. Even if one were to read the three-month deadline as a directory deadline and not a mandatory deadline, the time by which the Petitioners purported to pursue 33B proceedings on their own was several years later – in July 2017. However, four years before that (in 2013), they had sold their right, title and interest to the Subject Land to a third party. In 2017, the Athavales sold it to another third party, who is now conducting these proceedings, in the Athavales' name;

K] The Petitioners themselves having unequivocally sold the land on an as-is-where-is basis in 2013, the foundational ingredient of Section 33B of the Act i.e. the requirement for *personal* cultivation, has evaporated. Even if one were to consider the right to require the land for personal cultivation under Section 33B as an inheritable right, it would necessarily follow that the Petitioners would need to demonstrate their own *bona fide* requirement for personal cultivation. Having unequivocally sold the land, it would be impossible for the Petitioners to claim that they are desirous of personal cultivation of the Subject Land.

12. It is in these circumstances, that I am satisfied that the findings of the MRT in the Impugned Order, do not call for interference. No case has been made out to demonstrate a *bona fide* requirement being pursued by the Petitioners for any interference to be made. The Subject Land is amidst a residential cluster and the land would be used for construction. The Petitioners have filed the Writ Petitions, but the real pursuit of Athavales' petition is by the transferee.

13. As a facet of the discretion of a Writ Court, since the party has unequivocally sold the land, the basis of entitlement to seek personal cultivation of the land under Section 33B of the Act having come to an end, there is no basis for the writ court to interfere with the Impugned Order.

14. Therefore, the Petitions are finally ***disposed of*** without any interference.

15. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]