AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8350 OF 2017

1. **Kashinath Kamlu Shinde**
2. **Keshav Kamlu Shinde**
3. **Rajendra Kamlu Shinde** **… Petitioners**

Vs.

Madhukar @ Baliram Laxman Dalal,
Since deceased through his LRs.

1/1. Manohar Madhukar @ Baliram Dalal
1/2. Vijaykumar Madhukar @ Baliram Dalal
1/3. Shyamsundar Madhukar @ Baliram Dalal
1/4. Lata Madhukar @ Baliram Dalal
1/5. Geeta Nandkumar Mahajan
2. Shantaram Laxman Dalal **… Respondents**

ATUL GANESH KULKARNI
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Mr. Sunil Karandikar i/by Mr. Aniruddha A. Garge with Mr. Kashyap Bhalerao and Mr. Yesh Gangal for the Petitioners.

Mr. Mandar Limaye for Respondent Nos.1/1 to 1/5 and 5.

CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 17, 2026.

PRONOUNCED ON : AUGUST 19, 2026

<u>JUDGMENT</u>:

1. By this writ petition filed under Articles 226 and 227 of the Constitution of India, the Petitioners have challenged the legality, validity, and correctness of the Judgment and Order dated 8 May 2017 passed by the President, Maharashtra Revenue Tribunal in Revision No. TNC/REV/TH/198/2015. By the said order, the Maharashtra Revenue Tribunal set aside the Order dated 10 March 2015 passed by the Sub-Divisional Officer, Kalyan in Tenancy Appeal No. 5 of 2015, as the Order dated 14 February 2014 passed by the Tahsildar and A.L.T., Kalyan in Tenancy Case No. 32G/25/2011.

2. The facts which have given rise to the present writ petition, as stated by the Petitioners, are as follows. The Petitioners had filed Tenancy Case No. 32G/25/2011 before the Tahsildar and A.L.T., Kalyan. They prayed for fixation of the purchase price of the suit lands under Section 32 of the Maharashtra Tenancy and Agricultural Lands Act, 1948. Their case was that, after the purchase price was fixed, they should be permitted to purchase the suit lands in accordance with the provisions of the Tenancy Act. After hearing the parties, the Tahsildar and A.L.T., Kalyan allowed Tenancy Case No. 32G/25/2011 by Judgment and Order dated 14 February 2014. Being dissatisfied with the Judgment and Order dated 14 February 2014 passed by the Tahsildar and A.L.T., Kalyan, the Respondents filed Tenancy Appeal No. 5 of 2015 before the Sub-Divisional Officer, Kalyan. After hearing the parties, the Sub-Divisional Officer, Kalyan dismissed the said appeal by Judgment and Order dated 10 March 2015. The order passed by the Tahsildar and A.L.T., Kalyan was thus confirmed. The Respondents challenged the Judgment and Order dated 10 March 2015 passed by the Sub-Divisional Officer, Kalyan by filing Revision No.

TNC/REV/TH/198/2015 before the President, Maharashtra Revenue Tribunal, Mumbai. The Maharashtra Revenue Tribunal heard the parties and allowed the revision by its Judgment and Order dated 8 May 2017. By the said order, the Tribunal set aside both the orders passed by the Sub-Divisional Officer, Kalyan and the Tahsildar and A.L.T., Kalyan. It is against this order that the Petitioners have approached this Court by filing the present writ petition.

3. Mr. Karandikar, learned Advocate appearing for the Petitioners, invited my attention to Sections 33B, 33C and 88B of the Maharashtra Tenancy and Agricultural Lands Act, 1948. He submitted that the Maharashtra Revenue Tribunal proceeded on the legal position relating to Section 32F as understood from the decision in *Tukaram Maruti Chavan vs. Maruti Narayan Chavan (Dead),* reported in (2008) 6 Bom CR 570 : AIR 2009 SC 1126. According to him, however, the legal position concerning interpretation of Section 32F was subsequently held differently by the Supreme Court in *Vasant Ganpat Padave (Dead) by Legal Representatives & Ors. vs. Anant Mahadev Sawant (Dead) through Legal Representatives & Others,* reported in (2019) 19 SCC 577. He submitted that the Supreme Court held that, where the landlord or the successor of the landlord belongs to any of the three categories mentioned in Section 32F, namely, a minor, a widow, or a person suffering from mental or physical disability, an intimation is required to be given to the tenant before expiry of the period during which such landlord is entitled to terminate the tenancy under Section 31.

4. Mr. Karandikar submitted that Chapter III-A, dealing with termination of tenancy by certain landlords and purchase of lands by tenants in respect of lands to which Section 88C applies, was introduced by Maharashtra Amendment No. 9 of 1961. He submitted that Section 33A, for the purpose of Sections 33B and 33C, defines a "certificated landlord" as a person holding a certificate issued under sub-section (4) of Section 88C. However, it does not include a landlord falling within the meaning of Chapter III-AA, even though such landlord may hold a similar certificate. He submitted that the earlier order dated 12 December 1960 against the tenant was passed at a time when Sections 33A to 33C had not yet been introduced in the Act. According to him, this aspect has material importance. He submitted that the Maharashtra Revenue Tribunal did not consider the proviso to Section 33B(4). Under the said proviso, even if one of the persons belongs to any of the categories mentioned in Section 33B(4), the benefit of that provision would not be available where any member of the joint family does not belong to those categories.

5. According to Mr. Karandikar, the case of the Respondents is that only one out of the three landlords was a certificated landlord. He, therefore, submitted that the provisions of Section 33B(4), particularly its proviso, were required to be considered before coming to the conclusion reached by the Maharashtra Revenue Tribunal.

6. Mr. Karandikar then invited my attention to Section 33C. He submitted that the notice contemplated under the said provision was required to be served upon the tenant before 1 January 1962.

Where an application under Section 88C was pending, such notice was required to be given within three months from the date of receipt of the certificate. He submitted that sub-section (5) of Section 33C makes it clear that Sections 32 to 32R would apply to the purchase of land by an excluded tenant under that provision. According to him, therefore, the effect of Section 33C and its different sub-sections was required to be considered while deciding whether the Petitioners were entitled to seek fixation of the purchase price under Section 32G.

7. On the other hand, Mr. Limaye, learned Advocate appearing for the Respondents, submitted that an earlier application filed by the Petitioners had been rejected on 12 December 1960. According to him, once such application had been rejected, a fresh application could not be maintained merely because Sections 33A to 33C were subsequently introduced in the Act. He submitted that this was the view correctly taken by the Maharashtra Revenue Tribunal. Mr. Limaye submitted that even the successor-in-interest of a widow is entitled to claim the benefit available to a certificated landlord who is a widow. In support of this submission, he relied upon the judgment of the Division Bench of this Court in *Parvatibai Ramchandra Rokade vs. Mahadu Tukaram Varkhede,* reported in AIR 1967 Bom 428 : 1967 SCC OnLine Bom 33, particularly paragraphs 11 and 13 thereof. He submitted that the expression "certificated landlord" appearing in Sections 33A to 33C is wide enough to include the successors-in-interest of such landlords. According to him, therefore, the Respondents were entitled to claim the benefit flowing from the status of the original landlord, even after succession.

REASONS AND ANALYSIS:

8. I have considered the submissions made by the learned Advocates appearing for both sides, the orders passed by the Tahsildar and A.L.T., the Sub-Divisional Officer, the Maharashtra Revenue Tribunal, the provisions of law and the judgments relied upon by the respective parties. In my view, the main dispute can be decided by considering the scheme of Sections 32F, 33A to 33C and 88, along with the effect of the earlier proceedings which came to be decided on 12 December 1960.

9. Since the learned Advocates for the parties have placed much reliance on Sections 33A, 33B and 33C, it is necessary to refer to these provisions. These provisions are found in Chapter II-A of the Act. This Chapter deals with termination of tenancy by landlords and purchase of lands by tenants in respect of lands to which Section 88C applies. The relevant provisions are reproduced below:

> "(II-A) Termination of tenancy by landlords, and purchase by tenants, of lands to which section 88C applies.
>
> 33A. Definitions.—For the purposes of Sections 33-B and 33-C,—
>
> (i) 'certificated landlord' means a person who holds a certificate issued to him under sub-section (4) of Section 880 but does not include a landlord within the meaning; of Chapter III-AA holding a similar certificate; and
>
> (ii) 'excluded tenant' means a tenant of land to which Sections 32 to 32-R (both inclusive) do not apply by virtue of

sub-section (1) of Section 88-C.

33B. Special right of certificated landlord to terminate tenancy for personal cultivation.—

1) Notwithstanding anything contained in Section 31, 31-A or 31-B a certificated landlord may, after giving notice and making an application for possession as provided in sub-section (3) terminate the tenancy of an excluded tenant, if the landlord bona-fide requires such land for cultivating it personally.

(2) The notice may be given and an application made by a certificated landlord under sub-section (3), notwithstanding that in respect of the same tenancy an application of the landlord made in accordance with sub-section (2) of Section 31—

(i) is pending before the Mamlatdar or in appeal before the Collector or, in revision before the Maharashtra Revenue Tribunal, on the date of the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1960 (Mah. IX of 1961), (hereinafter referred to in this section as 'the commencement date'), or

(ii) has been rejected by any authority before the commencement date.

(3) ……………………….

(a) ……………………..

(b) ………………………,

(4) Where the certificated landlord belongs to any of the following categories, namely:—

(a) a minor,

(b) a widow,

***

(d) a person subject to any physical or mental disability.

…………………………………………………..—

(A) ……………………………………..,—

(i) ……………………………….;

iii) ………………………; and

(B) in the case of a widow, by the successor-in-title within one year from the date on which widow's interest in the land ceases:

Provided that, where a person belonging to any category is a member of a joint family, the provisions of this sub-section shall not apply if any one member of the Joint family does not belong to any of the categories mentioned in this sub-section, unless the share of such person in the joint family has been separated by metes and bounds before the 31st day of March 1958 and the Mamlatdar on inquiry is satisfied that the share of such person in the land is separated, (having regard to the area, assessment, classification and value of the land) in the same proportion as the share of that person in the entire joint family property, and not in a larger proportion.

(5) ……………………………………………………..,—

(a) ……………………………………………………..

(b) ……………………………………………

(c) ……………………………………………..

(6) ………………………………………………….

(7) ……………………………………………….

33C. Tenants of lands mentioned in section 88C to be deemed to have purchased land and other incidental provisions.—

(1) Notwithstanding anything contained in sub-section (1) of Section 88-C, every, excluded tenant holding land from a certificated landlord shall, except as otherwise provided in sub-section (3), be deemed to have purchased from the landlord, on the first day of April 1962, free from all encumbrances subsisting thereon on the said day, the land held by him as tenant, if such land is cultivated by him personally, and

(i) the landlord has not given notice of termination of tenancy in accordance with sub-section (3) of Section 33-B, or

(ii) the landlord has given such notice, but has not made an application under Section 29 for possession as required by the said sub-section (3), or

(iii) the landlord, not belonging to any of the categories specified in sub-section (4) of Section 33-B, has not terminated the tenancy on any of the grounds specified in Section 14, or has so terminated the tenancy but has not applied to the Mamlatdar on or before the 31st day of March 1962 under Section 29 for possession of the land:

Provided that, where the landlord has made such application for possession, the tenant shall, on the date on which the application is decided, be deemed, to have purchased the land which he is entitled to retain in possession after such decision.

(2)(a) ……………………………………

(b) ……………………………

(3) Where the certificated landlord, belonging to any of the categories specified in sub-section (4) of Section 33-B, has not given notice of termination of the tenancy of an, excluded tenant in accordance with sub-section (3) of that section, or has given such notice but has not made an application under Section 29, for possession is required by

the said sub-section (3), such excluded tenant shall hate the right to purchase the land held by him as tenant within, one year from the expiry of the period specified in sub-section (4) of Section 33-B:

Provided that, where the tenancy is terminated and application for possession is made in accordance with the provisions of sub-section (4) of Section 33-B, the tenant shall, within one year from the date on which such application is decided be entitled to purchase the land which he is entitled to retain in possession after such decision.

(4) An excluded tenant desirous of exercising] the right conferred on him under sub-section (3) shall accordingly inform the landlord and the Tribunal in the prescribed manner within the period of one year during which he is entitled to exercise such right under sub-section (3).

(5) The provisions of Sections 32 to 32-R (both inclusive) shall; so far as may be applicable, apply to the purchase of land by an excluded tenant under this section."

10. Section 33A, in simple words, tells the meaning of the expressions “certificated landlord” and “excluded tenant” for the purpose of Sections 33B and 33C. A certificated landlord means a person holding the certificate contemplated under Section 88C(4), subject to the exclusion which is mentioned in that provision. An excluded tenant means a tenant to whom the usual provisions regarding purchase of land under Sections 32 to 32R do not apply because of Section 88C(1). Section 33B then gives a special right to such certificated landlord for terminating the tenancy of an excluded tenant, where the land is bona fide required for personal cultivation. However, this right is not available without conditions. The landlord has to follow the procedure prescribed in the section.

Notice is required to be given to the tenant., an application for possession has to be made before the Mamlatdar within the period provided by law. Sub-section (2) of Section 33B is important for the present dispute. It permits a certificated landlord to give notice and make an application under Section 33B even in respect of the same tenancy where an earlier application under Section 31(2) was pending on the commencement date or had already been rejected before that date. Therefore, merely because proceedings under Section 31 were started earlier, whether such proceedings were pending or came to be rejected, that fact by does not stop the certificated landlord from taking benefit of Section 33B. Naturally, the other requirements of that section will still have to be satisfied. Sub-section (3) provides the time within which notice is required to be served and the application for possession has to be made. Where an application under Section 88C was still pending and was not disposed of by the relevant date, a different period is provided. Thus, the right under Section 33B has to be exercised in the manner and within the time which is provided by the section. Sub-section (4) makes a separate provision for a certificated landlord who is a minor, widow or a person having physical or mental disability. If such landlord has not given notice or made the necessary application during the ordinary period, a period is made available after the concerned status or disability comes to an end. In case of a widow, the successor-in-title is permitted to give notice and make the application within one year from the date on which the widow's interest in the land comes to an end. However, the proviso to Section 33B(4) needs proper consideration. Where a person belonging to any of these protected categories is a member of a joint family, the benefit under sub-section (4) does not become available only because such person is a widow, minor or a person suffering from disability. If even one member of the joint family does not belong to any of these protected categories, the benefit will not be available unless the share of the protected person was separated by metes and bounds before 31 March 1958. The Mamlatdar must be satisfied, after inquiry, that the share in the land was separated in the proportion required under the proviso. Therefore, while considering a claim for the extended period under Section 33B(4),it becomes necessary to see whether the certificated landlord was holding the land separately or as a member of a joint family. If the landlord was a member of a joint family and another member did not belong to any of the protected categories, the proviso may affect the right claimed under sub-section (4), unless the conditions relating to separation of the share are shown to have been satisfied.

11. Section 33C then provides what happens where a certificated landlord does not terminate the tenancy or, after giving notice, does not take the steps required for obtaining possession. Subject to the conditions contained in that provision, an excluded tenant who is holding the land from a certificated landlord and personally cultivating it becomes entitled to purchase the land in the circumstances mentioned therein. Sub-section (1) of Section 33C deals with different situations where the excluded tenant is deemed to have purchased the land. This may happen where the landlord has not given notice under Section 33B(3). It may happen where notice is given but the landlord does not make the necessary application for possession. It deals with a landlord who does not belong to any category under Section 33B(4), but does not terminate the tenancy or does not make the required application within the prescribed time. Where an application for possession is made, the tenant is deemed to have purchased that land which he is entitled to retain after the application is decided. Sub-section (2) concerns a tenant who was not in possession on the relevant date because he had been evicted before that date. If such tenant applies for possession within the prescribed period and succeeds before the competent authority, he is deemed to have purchased the land on the date when the final order allowing his application is passed. If he does not apply within the prescribed period, or if his application is rejected, clause (b) provides for the consequences in relation to the person who is then holding the land as tenant. Sub-section (3) of Section 33C is important where the certificated landlord belongs to one of the categories mentioned in Section 33B(4). If such landlord does not give notice of termination or, after giving notice, does not make the application for possession as required, the excluded tenant gets the right to purchase the land within one year from expiry of the period provided under Section 33B(4). Where the tenancy is terminated and an application for possession is made according to Section 33B(4), the tenant becomes entitled to purchase that land which he is entitled to retain, within one year from the date on which that application is decided. Sub-section (4) requires the excluded tenant, who wants to exercise the right under Section 33C(3), to inform the landlord and the Tribunal in the prescribed manner within the period of one year during which such right is available. Sub-section (5) then provides that Sections 32 to 32R shall apply, so far as they can apply, to such purchase. Thus, after the right to purchase arises under Section 33C, the machinery relating to such purchase becomes applicable. This would include the relevant procedure for determination and fixation of the purchase price under the provisions of the Act.

12. The case of the Petitioners is that the Tahsildar and A.L.T. was right in entertaining their proceedings under Section 32G and in fixing the purchase price of the land. The Sub-Divisional Officer agreed with and confirmed that decision. However, the Maharashtra Revenue Tribunal reversed both these orders on the ground that an earlier application concerning the tenancy was rejected on 12 December 1960 and the Petitioners could not again claim any right to purchase the land.

13. Mr. Karandikar submitted that the approach adopted by the Maharashtra Revenue Tribunal is not proper. According to him, the earlier order was passed on 12 December 1960, whereas Sections 33A to 33C were brought into the Act only by Maharashtra Act IX of 1961. He submitted that the Tribunal did not consider the particular language used in Section 33B(2). He submitted that the Tribunal did not consider the proviso to Section 33B(4), particularly because, according to the Respondents, only one out of the three landlords was a certificated landlord.

14. On the other hand, Mr. Limaye submitted that the earlier rejection dated 12 December 1960 had concluded the matter. According to him, merely because Sections 33A to 33C were subsequently introduced, it did not give any fresh or separate right to the Petitioners to again open the tenancy dispute. He relied upon the decision in *Parvatibai Ramchandra Rokade* and submitted that the benefit available to a certificated landlord continues even in favour of the successor-in-interest of such landlord.

15. Therefore, the first question which requires consideration is whether the earlier order dated 12 December 1960 can prevent the Petitioners from claiming a right which is stated to have arisen under provisions introduced subsequently.

16. In my view, the answer to this question has to be found from the provisions of Section 33B. Section 33B was introduced as part of a separate scheme dealing with certificated landlords and excluded tenants. It appears that the Legislature was aware that, before these new provisions came into force, proceedings under Section 31 may be pending or may even have been rejected. It is for this reason that Section 33B(2) provides that notice may be given and an application may be made under sub-section (3), notwithstanding that, in respect of the same tenancy, an application made by the landlord under Section 31(2) either "is pending" before the competent authority or "has been rejected by any authority before the commencement date." The words "has been rejected by any authority before the commencement date" show that the Legislature had considered a case where proceedings concerning the same tenancy were rejected before the new provisions came into force. Even in such a case, the certificated landlord was permitted, subject to compliance with the requirements of Section 33B, to take steps under the new provision. Therefore, merely because some earlier proceedings concerning the same tenancy were rejected before 2 September 1961, it cannot mean that every right arising under the provisions subsequently introduced stood finished. If the Legislature intended that an earlier rejection should close the matter in every case, Section 33B(2)(ii) would have no useful purpose.

17. Thus, the submission of Mr. Limaye that the order dated 12 December 1960 closed every issue concerning the tenancy cannot be accepted in such a wide manner. The earlier order may bind the parties in respect of the issue which was decided in those proceedings. However, it cannot prevent operation of a later provision which takes into account a case where an earlier application had been rejected before commencement of the new law. At the same time, the submission of Mr. Karandikar cannot be accepted to the extent that introduction of Sections 33A to 33C gave the Petitioners an unrestricted right to seek fixation of purchase price. The right to purchase under the new provisions can arise only when the conditions prescribed by the statute are satisfied. The earlier proceedings may not be a complete bar. But the subsequent right must still arise in accordance with Sections 33B and 33C.

18. This takes the Court to the effect of Section 88C and the meaning of the expression “certificated landlord.” The Respondents have relied upon *Parvatibai Ramchandra Rokade*.

Paragraph 11 of the said judgment records that the amended Section 88C did not provide "that the exemption granted by that section would cease to be operative on the death of the person who obtained a certificate of exemption from the Mamlatdar." The Division Bench held that "[t]he certificate was clearly to inure to the benefit of the person's successors-in-interest." Paragraph 13 of the same judgment considered the position after Sections 33A to 33C were introduced. The Division Bench found that, before these provisions were introduced, the exemption obtained by a landlord by securing a certificate under Section 88C "continued after his death and inured for the benefit of his successor-in-interest." The Court observed that there was nothing in Sections 33A to 33C to show that the Legislature intended to change this position. The conclusion of the Division Bench was stated in clear terms. It was held that "in the absence of any express provision to the contrary, that the term 'certificated landlord' in those sections includes the successors-in-interest of those landlords."

19. I do not find any difficulty in accepting this legal position. If a landlord had lawfully obtained a certificate under Section 88C, death of such landlord would not put an end to the character arising from that certificate. The successor-in-interest can, subject to the provisions of the Act, step into the position of the original certificated landlord. Therefore, Mr. Limaye is right to the extent he submits that the successor-in-interest of a widow or another certificated landlord cannot be excluded merely because the original person in whose name the certificate was issued has died. The decision in *Parvatibai Ramchandra Rokade* supports continuation of such benefit in favour of the successor-in-interest. However, this conclusion does not decide the whole case in favour of the Respondents. There is a difference between saying that the successor-in-interest continues to get the benefit of the certificate and saying that, because of such benefit, the tenant can never get any right to purchase the land. The statute provides how the rights of the landlord and tenant are required to operate.

20. Section 33B gives a certificated landlord a special right to terminate the tenancy for personal cultivation. However, this right is subject to requirements of the statute. The landlord has to comply with the requirements regarding notice and application. Section 33B(3) provides the period within which notice has to be given and proceedings for possession are required to be started. Section 33C then deals with the consequence where the certificated landlord does not take the steps required by law. Thus, the scheme keeps the special right of the certificated landlord. At the same time, it protects the excluded tenant by giving him a right to purchase when the conditions mentioned in Section 33C are satisfied. The position becomes more relevant where the certificated landlord belongs to one of the special categories mentioned in Section 33B(4), namely, a minor, widow or a person suffering from physical or mental disability. In such cases, a longer period is provided for giving notice and making an application. However, the proviso to Section 33B(4) cannot be ignored. It provides that where a person belonging to any of these categories is a member of a joint family, the benefit of sub-section (4) will not apply if even one member of the joint family does not belong to those categories, unless the share of such protected person had been separated by metes and bounds before the specified date and the Mamlatdar, after inquiry, is satisfied that the requirements regarding such separation are fulfilled. Therefore, the proviso puts an important limitation on the extended protection claimed under Section 33B(4). The mere fact that there is a widow or another protected person in a joint family does not mean that the entire tenancy or entire property will get benefit of the extended period under sub-section (4).

21. The submission of Mr. Karandikar on this point requires acceptance. The proviso forms part of the provision and cannot be ignored while deciding whether the extended period was available. If the landlord was a member of a joint family and even one member was not belonging to the protected categories, the benefit under Section 33B(4) would not be available unless the requirements regarding separation by metes and bounds are established. In the present case, it is submitted on behalf of the Petitioners that, according to the case of the Respondents, only one out of the three landlords was a certificated landlord. If this is the factual position, the question whether special protection under Section 33B(4) was available cannot be decided merely because one of the landlords was a widow or belonged to a protected category.

22. It was necessary to examine the nature and constitution of the family, the respective interest of the landlords, whether the holding was joint or separately held, and whether the conditions of the proviso were satisfied. From the material placed before this

Court, there is nothing to show that the requirements regarding separation by metes and bounds, as required by the proviso, were established. This aspect is important because the Maharashtra Revenue Tribunal appears to have proceeded on the basis that the protected status of the landlord was enough to postpone the tenant's right. Such an approach does not give full effect to the proviso to Section 33B(4).

23. The same principle is found in Section 32F. The proviso to Section 32F(1)(a) states that where a person belonging to the protected category is a member of a joint family, "the provisions of this sub-section shall not apply if at least one member of the joint family is outside the categories mentioned in this sub-section" unless the requirements relating to separation of the protected person's share are satisfied. Thus, both Section 32F and Section 33B show a similar intention of the Legislature. Special protection is given to a minor, widow or person suffering from disability. But it does not appear that the Legislature intended that only because one such person is present in a joint family, the tenant's right in respect of the entire joint holding should remain postponed.

24. The next submission concerns the effect of the judgment of the Supreme Court in *Vasant Ganpat Padave*. Mr. Karandikar submitted that the Maharashtra Revenue Tribunal relied upon an earlier legal position which cannot continue after the declaration of law made by the Supreme Court in the said judgment.

25. The Supreme Court, in paragraph 55.1, held:

"The object of the Amendment Act of 1969 is relevant and applicable in deciding the scope of the right to purchase by a tenant of a landlord who was a widow or suffering from mental or physical disability on Tillers' Day."

26. The Supreme Court held in paragraph 55.2:

"The successor-in-interest of a widow is obliged to send an intimation to the tenant of cessation of interest of the widow to enable the tenant to exercise his right of purchase."

27. The meaning of this requirement is that the tenant's right is connected with the event when the special interest or protection of the widow comes to an end. Unless the tenant is informed that the widow's interest has ceased, the tenant may not know when his right to purchase has become capable of being exercised.

28. The Supreme Court reconsidered the earlier legal position. Paragraph 55.3 states:

29. "The decision in Appa *Narsappa (Appa Narsappa Magdum v. Akubai Ganapati Nimbalkar,* (1999) 4 SCC 443) stands overruled. The decision in *Sudam Ganpat (Sudam Ganpat Kutwal v. Shevantabai Tukaram Gulumkar,* (2006) 7 SCC 200) stands distinguished as stated in para 47 of the judgment. The decision in *Tukaram Maruti* (*Tukaram Maruti Chavan v. Maruti Narayan Chavan*, (2008) 9 SCC 358), to the extent that it follows the law laid down in *Appa Narsappa* (*Appa Narsappa Magdum v. Akubai Ganapati Nimbalkar,* (1999) 4 SCC 443), stands overruled."

30. Therefore, to the extent the Maharashtra Revenue Tribunal relied upon *Tukaram Maruti Chavan* following the principle in *Appa Narsappa,* such reasoning cannot now continue. The declaration of law by the Supreme Court is binding. The issue has to be considered by applying the law held in *Vasant Ganpat Padave*.

31. Mr. Limaye is, however, right in one part of his submission. The decisions in *Parvatibai Ramchandra Rokade* and *Vasant Ganpat Padave* cannot be understood as taking away the rights of the successor-in-interest of a certificated landlord. The successor may continue to claim the position which was available to the original landlord. However, such continuation is subject to the duties and conditions imposed by the statute and the interpretation subsequently given by the Supreme Court. In particular, where the tenant's right depends upon cessation of the interest of a widow, the successor cannot remain silent and contend that the tenant has lost his right only because time has passed. Paragraph 55.2 of *Vasant Ganpat Padave* requires the successor-in-interest to send an intimation to the tenant regarding cessation of the widow's interest. Therefore, the legal protection available to the landlord and the right of the tenant have to operate together according to the Act. The successor may get the benefit of the certificate. However, when the conditions for the tenant's right to purchase arise, such right must be given effect.

32. The scheme of Section 33C supports this position. Section 33C(1) provides for deemed purchase by the excluded tenant in the circumstances mentioned therein. Section 33C(3) makes a separate provision where the certificated landlord belongs to the categories specified in Section 33B(4). It provides that where such landlord has not given notice or, after giving notice, has not made the required application for possession, the excluded tenant will have a right to purchase the land within the period prescribed by law. The proviso to Section 33C(3) keeps alive the tenant's right after the proceedings for possession are decided. It states that where the tenancy is terminated and an application for possession is made according to Section 33B(4), "the tenant shall, within one year from the date on which such application is decided be entitled to purchase the land which he is entitled to retain in possession after such decision." Section 33C(4) requires an excluded tenant, who wants to exercise the right to purchase, to inform the landlord and the Tribunal in the prescribed manner within the prescribed period. Section 33C(5) provides that Sections 32 to 32R shall apply, so far as may be applicable, to such purchase.

33. Thus, the scheme is clear. The right under Section 33C is not merely an uncertain right. When the conditions are fulfilled, the excluded tenant can exercise the right, and the machinery under Sections 32 to 32R, including the procedure for fixing the purchase price, becomes applicable.

34. The contention of the Respondents that the Petitioners could never invoke Section 32G only because of the order dated 12 December 1960 is, therefore, too wide. The earlier order was passed before Sections 33A to 33C were introduced. Section 33B(2)(ii) recognises that an earlier application may have been rejected before commencement of the new provisions. The earlier order may be relevant for deciding the facts and rights which existed on 12 December 1960. However, it cannot be treated as a complete answer to every right which subsequently arose or became exercisable under the amended scheme.

35. Section 88 does not support the case of the Respondents to the extent claimed by them. Section 88 provides exemption in respect of the categories of lands mentioned therein. At the same time, the scheme shows that when such exemption or special management position comes to an end, the provisions relating to termination of tenancy and purchase of land may become applicable according to the special provisions of the Act.Therefore, Section 88, Sections 33A to 33C and Section 32F have to be understood as part of one scheme. A certificate or exemption may protect the landlord for the period and in the manner provided by law. At the same time, the Act provides the circumstances in which the tenant gets a right to purchase the land.

36. In my view, the Maharashtra Revenue Tribunal did not examine the matter by considering this complete scheme. The Tribunal appears to have treated the earlier rejection of the application and the protected status claimed by the Respondents as sufficient to reject the Petitioners' claim. The effect of Section 33B(2), the proviso to Section 33B(4), the proviso to Section 32F and the scheme of Section 33C required consideration.

37. There is one more reason why the decision of the Maharashtra Revenue Tribunal cannot be sustained. The reasoning of the Tribunal, insofar as it is based upon the legal position derived from *Tukaram Maruti Chavan* following *Appa Narsappa*, is affected by the later judgment of the Supreme Court in *Vasant Ganpat Padave*. Paragraph 55.3 states that T*ukaram Maruti Chavan*, to the extent it follows *Appa Narsappa*, "stands overruled."

38. This Court is required to apply the law declared by the Supreme Court. Therefore, the question of the tenant's right cannot now be decided on the basis that no intimation is required from the successor-in-interest of a widow. Paragraph 55.2 of Vasant Ganpat Padave has clearly held otherwise. From the material placed before this Court, there is no basis to hold that the requirement of giving intimation, as held by the Supreme Court, was complied with in such manner that the period for the Petitioners to exercise their right of purchase had started running against them. The Respondents may continue to be the successors-in-interest of the certificated landlord. This position follows from the decision in *Parvatibai Ramchandra Rokade*. However, this does not mean that the rights of the Petitioners remain suspended. The conditions concerning the protected category, the proviso relating to joint family, the procedure of notice and application, and the tenant's right to purchase, all have to be given their proper meaning and effect.

39. The Tahsildar and A.L.T., whose order was confirmed by the Sub-Divisional Officer, upheld the entitlement of the Petitioners to proceed for determination of the purchase price. The Maharashtra Revenue Tribunal set aside those orders. After considering the scheme and the law subsequently declared by the Supreme Court, I am unable to sustain the reasoning adopted by the Maharashtra Revenue Tribunal. The material before this Court shows that the main objection of the Respondents is based upon the earlier rejection dated 12 December 1960 and the continuation of the certificate in favour of the successors-in-interest. The first objection cannot prevail because Section 33B(2)(ii) recognises that an earlier application may have been rejected before the new scheme came into force. The second objection is correct only to the limited extent that the benefit of the certificate may continue in favour of the successors-in-interest, as held in *Parvatibai Ramchandra Rokade*. However, continuation of the certificate does not remove the conditions imposed by Sections 33B and 33C. It does not remove the requirement recognised by the Supreme Court in paragraph 55.2 of *Vasant Ganpat Padave* that the successor-in-interest of a widow must intimate the tenant regarding cessation of the widow's interest so as to enable exercise of the right of purchase. Further, where the claim for extended protection is based upon Section 33B(4), the proviso cannot be ignored. On the material presently available, the Respondents have not shown that the requirements necessary for claiming the benefit of that proviso were satisfied. This becomes more relevant in view of the submission that there were three landlords and only one of them was claimed to be a certificated landlord.

40. Considering the matter as a whole, the legal objections accepted by the Maharashtra Revenue Tribunal cannot defeat the proceedings initiated by the Petitioners for fixation of the purchase price. The right of the Petitioners has to be examined under the provisions which became applicable. It cannot be rejected merely by treating the order dated 12 December 1960 as concluding every consequence which arose.

41. I, therefore, hold that the Maharashtra Revenue Tribunal was not justified in setting aside the concurrent orders of the Tahsildar and A.L.T. and the Sub-Divisional Officer on the grounds stated by it. The Judgment and Order dated 8 May 2017 passed by the Maharashtra Revenue Tribunal in Revision No. TNC/REV/TH/ 198/2015 is, therefore, liable to be quashed and set aside. Consequently, the Judgment and Order dated 14 February 2014 passed by the Tahsildar and A.L.T., Kalyan in Tenancy Case No. 32G/25/2011, which was confirmed by the Judgment and Order dated 10 March 2015 passed by the Sub-Divisional Officer, Kalyan in Tenancy Appeal No. 5 of 2015, is restored.

42. The writ petition is accordingly allowed in the above terms. Rule is made absolute. There shall be no order as to costs.

(AMIT BORKAR, J.)