Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12947 OF 2016

Naresh Kesarimal Mehta & Anr. … Petitioners

V/s.

Shardabai Ganesh Oze
(Since Deceased Through LRs.) & Ors. … Respondents

WITH
WRIT PETITION NO. 6409 OF 2018

Naresh Kesarimal Mehta & Anr. … Petitioners

V/s.

Shardabai Ganesh Oze
(Since Deceased Through LRs.) & Ors. … Respondents

SHABNOOR AYUB PATHAN
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Mr. Atul Damle, Sr. Adv. with Mr. Samir Suryawanshi for the Petitioner in WP/12947/216.

Mr. Prasad Dani, Sr. Adv. i/by Mr. Samir Suryawanshi for the Petitioner in WP/6409/2018.

Mr. Ashutosh Kulkarni a/w Mr. Hrutik R. Chavan i/by Mr. Akshay Kulkarni for the Respondent No. 1 in both the Petitions.

Mr. S. G. Karandikar i/by Mr. J.M. Joshi for the Respondent No. 2 to 13 in WP/6409/2018.

Mr. S. G. Karandikar i/by Mr. Amol Mhatre for the Respondent No. 2 to 13 in WP/12947/2016.

Ms. A. A. Nadkarni, AGP for the Respondent No. 16 & 17 in WP/12947/2016.

Smt. V. R. Raje, AGP for the Respondent No. 20 & 21 in WP/6409/2018.

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CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 24, 2026

PRONOUNCED ON : AUGUST 31, 2026

JUDGMENT:

1. The Petitioners in Writ Petition No.12947 of 2015 have filed the present Writ Petition challenging the order dated 29 March 2016 passed by the learned President of the Maharashtra Revenue Tribunal, Mumbai. By the said order, the learned Tribunal dismissed the Revision Application filed by the Petitioners and confirmed the order dated 24 May 2012 passed by the Sub Divisional Officer, Panvel Sub Division, in Tenancy Appeal No. 41 of 2011. The Petitioners challenge the order dated 22 February 2011 passed by the A.L.T., Panvel. The said order was confirmed by the Sub Divisional Officer, Panvel Sub Division, by order dated 24 May 2012 in Tenancy Appeal No. 41 of 2011. In Writ Petition No. 6409 of 2018 the Petitioners are challenging the impugned order dated 7 March 2017 passed by the learned Member (Administrative), Maharashtra Revenue Tribunal, Mumbai, as well as the impugned order dated 12 May 2014 passed by the Collector, Raigad.

2. The Petitioners in Writ Petition No.6409 of 2018 have filed present Writ Petition challenging the order dated 7 March 2017 passed by the Maharashtra Revenue Tribunal, Mumbai thereby dismissing the application filed by the Petitioners seeking continuation of status quo order passed on 17 September 2014. The learned MRT observed that since after permission under

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Section 43 of the Tenancy Act, Sale Deed is executed, and main Revision is disposed of finally, the said application cannot be granted.

3. For the sake of convenience, facts in Writ Petition No.12947 of 2016 are being taken as lead matter.

4. The dispute relates to agricultural land bearing old Survey No. 16/4, admeasuring 12-29-00 H.R., with Pot Kharaba of 1-71-00 H.R., now bearing Gat No. 219/4, situated at Village Shirdhon, Taluka Panvel, District Raigad. Shri Ganesh Sadashiv Oze was the original landlord of the suit land and became its owner. According to the Petitioners, Respondent Nos. 2 to 15 were wrongly claiming to be tenants in respect of the suit land. In the year 1964, the predecessor of Respondent Nos. 2 to 15, namely Late Shri Gorya Posha Vajekar, filed an application under Section 32-G of the Bombay Tenancy and Agricultural Lands Act, 1948 before the A.L.T., Panvel. An inquiry was held. The learned Tahasildar and A.L.T., Panvel postponed the proceedings under Section 32-G on the ground that the landlady was a widow and,, determination of the purchase price was required to be postponed. Thereafter, Shri Gorya Posha Vajekar died. His legal heirs, namely Balya Gorya Vajekar and others, were entered in the revenue record by Mutation Entry No. 1587., Balya Gorya Vajekar died and the present Respondents, including Mahadeo Balu Vajekar and others, were entered in the revenue record as his legal heirs. On 3 October 2006, Shri Ashish Chandrakant Shah and Smt. Aparna Ashish Shah executed a Power of Attorney in favour of Shri Dilip Shankar Pawar. On 17 August 2006, one Mahadu Nathu Vajekar filed an

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application before the learned Tahasildar, Panvel, on behalf of Respondent Nos. 2 to 15 under Section 70(b) of the Bombay Tenancy and Agricultural Lands Act, 1948.

5. Before filing the said application under Section 70(b), an application had been filed by Mahadu Nathu Vajekar for deletion of the names of the alleged tenants, namely Respondent Nos. 2 to 15, from the revenue record. According to the Petitioners, their names had been wrongly entered as tenants. On 29 March 2007, Respondent Nos. 1 to 5, namely Ragho Ganpat Vajekar, Padu Ganpat Vajekar, Namdev Ganpat Vajekar, Smt. Changuna Sakharam Patil and Smt. Nanubai Ankush Bhoir, along with Smt. Kalubai Anand Bhopi, executed a Power of Attorney in favour of Shri Ashish Chandrakant Shah, Smt. Aparna Ashish Shah and Shri Vishwanath Bala Kotian. According to the Petitioners, because of the subsequent Power of Attorney dated 29 March 2007, the earlier Power of Attorney dated 3 October 2006 executed by Shri Ashish Chandrakant Shah in favour of Shri Dilip Shankar Pawar was without authority. It is contended that Shri Dilip Shankar Pawar had no authority to appear and contest the proceedings before the A.L.T., Panvel.

6. The learned A.L.T. and Tahasildar, Panvel, issued notices to the concerned parties and fixed the hearing on 24 August 2006. During the pendency of the application before the Tahasildar, Panvel, notices under Section 32-G were issued by the A.L.T. and Tahasildar, Panvel. On 7 July 2010, the present Respondent Nos. 2 to 13 filed an application or representation under Section 32-G of the Bombay Tenancy and Agricultural Lands Act, 1948 before the

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Additional Tahasildar and A.L.T., Panvel. They sought determination of the purchase price in respect of the suit land against Respondent No. 1. Notices were issued to the concerned parties in the tenancy proceedings. During the inquiry, the Power of Attorney holder of Smt. Shardabai Ganesh Oze, namely Shri Jitendra C. Vyas, raised an objection. According to the Petitioners, the inquiry was completed, but the statements of the parties were not recorded by the A.L.T. The Petitioners contend that the order dropping the proceedings and Mutation Entry No. 770 were never challenged by Respondent Nos. 2 to 13. According to the Petitioners, the effect of those proceedings was that the purchase price of Respondent Nos. 2 to 13 was not determined, and they could not be declared tenants in respect of the suit land in the revenue record.

7. On 22 February 2011, while the application under Section 70(b) was pending, the learned A.L.T., Panvel, conducted the inquiry under Section 32-G and fixed the purchase price in favour of Respondent Nos. 2 to 13. According to the Petitioners, this was done without considering the merits of the matter, without following the mandatory requirements of law and without properly verifying the relevant records. Respondent No. 1, being aggrieved by the order dated 22 February 2011 passed by the Additional Tahasildar, filed an appeal before the Sub Divisional Officer, Panvel. During the pendency of the appeal, the order dated 22 February 2011 passed by the Additional Tahasildar was stayed. The Petitioners state that the learned SDO heard the appeal on merits. On 4 July 2011, Respondent No. 1 filed detailed written

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submissions before the learned SDO. On 24 May 2012, the learned SDO, Panvel, passed an order in Tenancy Appeal No. 41 of 2011 and dismissed the appeal filed by Respondent No. 1. According to the Petitioners, both the order dated 22 February 2011 passed by the A.L.T., Panvel, and the order dated 24 May 2012 passed by the SDO are illegal and a nullity. The Petitioners contend that the original application under Section 32-G dated 7 July 2010 was filed by Shri Dilip Shankar Pawar as Power of Attorney holder, although he had no valid authority to represent the concerned parties.

8. It is contended that Shri Mahadu Balu Vajekar appeared before the learned SDO, Panvel, as a Power of Attorney holder even though the said Power of Attorney had been revoked and cancelled by the Respondents. According to the Petitioners, notice dated 5 July 2010 was issued to the Advocates and a public notice dated 6 July 2010 was published in the newspaper regarding such revocation. It is submitted that Shri Mahadu Balu Vajekar had no legal authority to contest the proceedings before the learned SDO. The Petitioners claim to be the original purchasers of the properties bearing Survey Nos. 219/3, 219/1, 219/2 and 219/4 situated at Village Shirdhon, Taluka Panvel, District Raigad. According to them, the properties were purchased from Smt. Shardabai Ganesh Oze. The entire consideration was paid pursuant to an Agreement for Sale which was registered with the office of the Sub Registrar, Panvel, on 29 May 2007.

9. Respondent No. 1 filed a Revision Application before the Maharashtra Revenue Tribunal challenging the order dated 22

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February 2011 passed by the A.L.T., Tahasildar, Panvel, and the order dated 24 May 2012 passed by the Sub Divisional Officer, Panvel. Earlier, Respondent No. 1 had filed Revision Application No. 243 of 2012 before the Maharashtra Revenue Tribunal, Mumbai, challenging the order dated 22 November 2011 passed by the Additional Tahasildar, Panvel, and the order dated 24 May 2012 passed by the learned SDO, Panvel. On 18 June 2012, the learned Maharashtra Revenue Tribunal admitted the said Revision Application and granted stay.

10. The Petitioners state that they had entered into an Agreement of Assignment dated 25 July 2006 with Mr. Wahid Hussain H. Shaikh in respect of the subject land. According to the Petitioners, they paid the entire consideration to Mr. Wahid Hussain H. Shaikh and Smt. Shardabai Ganesh Oze. It is stated that Mr. Wahid Hussain Shaikh had entered into a Memorandum of Understanding with Respondent No. 1, Smt. Shardabai G. Oze, and had rights in respect of the property. On that basis, the Petitioners entered into the Agreement of Assignment dated 25 July 2006 with Mr. Wahid Hussain H. Shaikh and Smt. Shardabai Ganesh Oze. The Petitioners state that they paid consideration to all the Respondents, including those persons who were claiming to be tenants in respect of the suit land. According to the Petitioners, Respondent Nos. 2 to 15 were claiming tenancy rights in respect of the subject land. The Petitioners state that they entered into the agreement with Mr. Wahid Hussain Shaikh and paid consideration to Respondent Nos. 2 to 15. The Petitioners claim that they are purchasers under the Agreement for Sale which was duly executed

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and registered with the office of the Sub Registrar, Panvel, on 29 May 2007. On this basis, they claim to have a lawful right to challenge the orders passed by the A.L.T. and the Sub Divisional Officer, Panvel.

11. On 25 June 2012, Respondent No. 1 sent a notice to the Petitioners terminating the Agreement for Sale dated 20 May 2007 and the Power of Attorney dated 19 October 2006. The Petitioners received the said notice and replied to it on 12 July 2012. In the reply, they denied the allegations and contents of the notice.

12. In August 2012, the Petitioners filed Special Civil Suit No. 329 of 2012 before the Civil Judge, Senior Division, Panvel. They filed an application below Exhibit 5 seeking an injunction under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure. On 7 August 2012, the learned Civil Judge, Senior Division, Panvel, issued notice to the Defendants and directed them to maintain status quo in respect of the suit property. On 26 August 2013, the Petitioners filed an application seeking intervention in the pending Revision Application No. 243 of 2012 before the Maharashtra Revenue Tribunal. On 18 November 2013, the learned Maharashtra Revenue Tribunal heard the intervention application and directed the Petitioners to serve the Respondents. Thereafter, the Petitioners appeared before the learned Tribunal and contested their application.

13. On 3 April 2014, according to the Petitioners, a General Power of Attorney holder, namely Mrs. Savita K. Chopra, surprisingly filed a pursis before the learned Maharashtra Revenue Tribunal seeking withdrawal of the Revision Application without

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giving notice to the Petitioners. Since Mrs. Savita K. Chopra had filed the pursis on 3 April 2014 claiming to act as the constituted General Power of Attorney holder of Smt. Shardabai G. Oze and seeking withdrawal of the Revision Application, the learned Maharashtra Revenue Tribunal passed an order permitting her to withdraw the Revision Application on the basis of the said Power of Attorney. Against the order dated 3 April 2014, Shri J. C. Vyas, claiming to be the Power of Attorney holder, filed Review Application No. 2 of 2015 before the learned Maharashtra Revenue Tribunal. On 18 June 2015, the learned Tribunal disposed of the Review Application. The Tribunal observed that the deceased Respondent No. 1 had allegedly executed the Power of Attorney in favour of the Applicant, who was no more. On that basis, the Tribunal held that the Review Application would not survive. The Petitioners state that they had paid the entire consideration to Respondent No. 1 and had a substantial interest in the property. They rely upon the pendency of Special Civil Suit No. 329 of 2012 before the Civil Judge, Senior Division, Panvel, concerning the subject land. On this basis, they claim to be interested and aggrieved parties and state that they were entitled to challenge the orders dated 24 May 2012 passed by the learned SDO in Tenancy Appeal No. 41 of 2011 and the order passed by the A.L.T.

14. The Petitioners state that they had executed the registered Agreement for Sale dated 29 May 2007 and an irrevocable Power of Attorney dated 19 October 2006 and had invested a substantial amount in the property.

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15. According to the Petitioners, they paid substantial consideration to Smt. Shardabai Ganesh Oze, which was accepted by her under the Agreement executed on 29 May 2007. They contend that from 29 May 2007 until the Revision Application was filed before the learned Maharashtra Revenue Tribunal, no person had raised any objection to the Petitioners' claim. The Petitioners apprehended that Smt. Shardabai Ganesh Oze might take steps to defeat their rights in the property. They accordingly requested the learned Maharashtra Revenue Tribunal to permit them to prosecute the Revision Application pending before it. The Petitioners contend that Respondent No. 1 was aware of the status quo order passed by the Civil Judge, Senior Division, Panvel, in Special Civil Suit No. 329 of 2012. According to the Petitioners, despite such knowledge, Respondent No. 1 deliberately filed the pursis dated 3 April 2014 seeking withdrawal of the Revision Application. The Petitioners claim to be aggrieved by the said withdrawal and sought to challenge the order dated 24 May 2012 passed by the learned SDO in Tenancy Appeal No. 41 of 2011 and the order passed by the A.L.T.

16. The Petitioners filed Revision Application No. 147 of 2014 before the learned Maharashtra Revenue Tribunal, Mumbai. By that Revision Application, they challenged the order dated 24 May 2012 passed by the Sub Divisional Officer, Panvel Sub Division, in Tenancy Appeal No. 41 of 2011 and the order dated 22 February 2011 passed by the A.L.T., Panvel. The said Revision Application was admitted by the learned Maharashtra Revenue Tribunal and notices were issued to the Respondents, returnable on 4 July 2014.

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While admitting the Revision Application, the learned Tribunal specifically observed that the arguments regarding the alleged practice of fraud before the Court by Respondent No. 1 through the Power of Attorney required careful scrutiny of the documents. The Revision Application was heard by the learned Maharashtra Revenue Tribunal from time to time. On 29 March 2016, the learned Tribunal passed the impugned order dismissing Revision Application No. 147 of 2014. The Petitioners, being aggrieved by the impugned order dated 29 March 2016 passed by the learned Maharashtra Revenue Tribunal, Mumbai, in Revision Application No. 147 of 2014, have filed the present Writ Petition.

17. Mr. Damle, learned Senior Advocate appearing for the Petitioners, submitted that both the orders dated 22 February 2011 passed by the A.L.T., Panvel, and 24 May 2012 passed by the learned S.D.O., Panvel, are illegal and have no legal effect. According to him, the original application under Section 32-G before the learned A.L.T., Panvel, was filed on 7 July 2010 by Shri Dilip Shankar Pawar as a Power of Attorney holder. However, Respondent Nos. 1 to 6, namely Ragho Ganpat Vajekar, Padu Ganpat Vajekar, Namdev Ganpat Vajekar, Smt. Changuna Sakharam Patil, Smt. Nanubai Ankush Bhoir and Smt. Kalubai Anand Bhopi, had executed a Power of Attorney dated 29 March 2007 in favour of Shri Ashish Chandrakant Shah, Smt. Aparna Ashish Shah and Shri Vishwanath Bala Kotian. It was submitted that the authority under which Shri Dilip Shankar Pawar had acted was not valid.

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18. Mr. Damle submitted that Respondent No. 1 had terminated the Power of Attorney dated 29 October 2006 as well as the Agreement for Sale dated 29 May 2007. He submitted that under the Agreement dated 29 May 2007, the total consideration for the land was Rs.1,60,00,000/-. Out of this amount, Smt. Shardabai Ganesh Oze had accepted a Demand Draft of Rs.80,00,000/- and Mr. Wahid Hussain Shaikh had accepted the remaining Rs.80,00,000/- as the Confirming Party. It was submitted that Shri J. C. Vyas, who was the Power of Attorney holder of Smt. Shardabai Ganesh Oze, had filed Revision Application No. 243 of 2012 before the learned Maharashtra Revenue Tribunal, Mumbai, and had obtained a stay order in that Revision Application.

19. Mr. Damle submitted that the Petitioners had paid the entire consideration to Respondent No. 1 and had a substantial interest in the property. He pointed out that Special Civil Suit No. 329 of 2012 concerning the same land was pending before the Civil Judge, Senior Division, Panvel. According to him, the Petitioners were interested and aggrieved parties and had a right to file a Revision Application before the learned Maharashtra Revenue Tribunal challenging the order dated 24 May 2012 passed by the learned S.D.O. in Tenancy Appeal No. 41 of 2011 and the order passed by the A.L.T. in Tenancy/SR/109A/2010, Panvel. He submitted that the Petitioners had executed a registered Agreement for Sale dated 29 May 2007 and an irrevocable Power of Attorney dated 19 October 2006. On the basis of these documents, they had invested a substantial amount in the property.

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20. Mr. Damle submitted that the Petitioners had paid substantial consideration to Smt. Shardabai Ganesh Oze and that she had accepted the said amount pursuant to the Agreement executed on 29 May 2007. According to the Petitioners, from 29 May 2007 until the filing of the Revision Application before the learned Maharashtra Revenue Tribunal, nobody had raised any objection to their transaction or their claim in respect of the property. It was submitted that both the authorities below ought to have given an opportunity of hearing to the Petitioners. According to Mr. Damle, the authorities should have recorded the statements of the Petitioners and all concerned persons, including the Respondents, before passing any order. He submitted that such procedure was mandatory under the law and that the orders passed without following it could not be sustained.

21. Mr. Damle submitted that the learned S.D.O., Panvel Sub Division, had himself accepted that on 1 April 1957 Respondent No. 1 was a widow. According to him, in such circumstances, a sale or purchase under Section 32-G of the Bombay Tenancy and Agricultural Lands Act was not permissible at that stage. He submitted that this important fact had not been properly considered while deciding the matter. He submitted that the learned S.D.O. failed to consider that Shri Mahadu Balu Vajekar had contested the proceedings before the learned S.D.O., Panvel, as a Power of Attorney holder even though the said Power of Attorney had been revoked and cancelled. According to Mr. Damle, notice of such revocation had been given through the Advocates' notice dated 5 July 2010 and by a public notice published in the

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newspaper on 6 July 2010., according to him, Shri Mahadu Balu Vajekar had no legal authority to appear and contest the proceedings before the learned S.D.O.

22. Mr. Damle submitted that after termination of the Power of Attorney dated 29 October 2006 and the Agreement for Sale dated 29 May 2007, the Petitioners filed Special Civil Suit No. 329 of 2012 before the Civil Judge, Senior Division, Panvel. In the said suit, the learned Civil Judge passed an order directing the parties to maintain status quo in respect of the property. The suit is still pending for hearing. It was submitted that the original Applicant, namely Smt. Shardabai G. Oze, appeared before the learned Maharashtra Revenue Tribunal after the alleged termination of the Power of Attorney and filed her Vakalatnama. According to Mr. Damle, despite this, on 3 April 2014, Smt. Savita K. Chopra, claiming to be the constituted General Power of Attorney holder of Smt. Shardabai G. Oze, filed a pursis before the learned Maharashtra Revenue Tribunal seeking withdrawal of the Revision Application.

23. Mr. Damle submitted that although Mrs. Savita K. Chopra was holding a General Power of Attorney from Smt. Shardabai G. Oze, that Power of Attorney did not contain any clause authorising her to withdraw the Revision Application or to pursue such proceedings before the learned Maharashtra Revenue Tribunal. He submitted that Mrs. Savita K. Chopra had no legal authority to file the pursis dated 3 April 2014 seeking withdrawal of the Revision Application. Consequently, according to him, the order passed by the learned Maharashtra Revenue Tribunal permitting such

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withdrawal could not be sustained.

24. In Writ Petition No. 6409 of 2018 Mr. Dani, learned Senior Advocate appearing for the Petitioner, submitted that the Petitioner had filed a Revision Application challenging the order passed under Section 32-G of the BTAL Act. He submitted that on 18 June 2012, the Revisional Authority had granted stay to the order passed under Section 32-G. He submitted that once the order passed under Section 32-G was stayed, the Authority under the said Act could not have thereafter granted permission under Section 43. According to him, such permission could not have been issued when the order under Section 32-G itself was under stay. He further submitted that the proceedings under Section 70-B of the said Act and the proceedings under Section 32-G operate in different fields. He submitted that, in the present case, the order under Section 32-G was passed in proceedings which had arisen from the proceedings under Section 70-B. According to him, the scope and purpose of the proceedings under Section 70-B are entirely different from those of proceedings under Section 32-G.

25. Mr. Dani submitted that the Revisional Authority could not have dismissed the Revision Application on the ground that the Petitioner had no locus. He submitted that the Petitioner was claiming rights on the basis of an agreement for sale. The entire consideration under the agreement had already been paid by the Petitioner. He further submitted that the Petitioner had also instituted a civil suit seeking specific performance of the agreement. Therefore, according to him, the Petitioner had sufficient interest in the property to challenge the order in

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question. He further submitted that the Revisional Authority could not have recorded a finding that the Petitioner had not yet perfected his title. According to him, the question whether the Petitioner had acquired complete title could not have been used for denying his locus to challenge the proceedings, particularly when the Petitioner was claiming rights under the agreement for sale and had already paid the entire consideration. He, therefore, submitted that the impugned order passed by the Revisional Authority suffers from an error and deserves to be quashed and set aside.

26. Mr. Karandikar, learned Advocate appearing for the Respondents, invited my attention to Section 64 of the Maharashtra Tenancy and Agricultural Lands Act and submitted that the said provision applies even at the stage of an agreement for sale. He submitted that under sub-section (1) of Section 64, when a landlord intends to sell any land, he is required to apply to the Tribunal for determination of the reasonable price of such land. After the price is determined, the agricultural land is required to be first offered to the tenant who is in actual possession of the land.

27. Mr. Karandikar submitted that the procedure prescribed under Section 64 is mandatory. If a sale is made without following the said procedure, sub-section (8) of Section 64 makes such sale invalid. According to him,, the Petitioners cannot claim any legal right merely on the basis of the Agreement for Sale executed in their favour. He submitted that the Petitioners, only because they have an Agreement for Sale in their favour, cannot claim any locus

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to challenge the order passed under Section 32-G. According to him, the Petitioners do not have any vested right in the property merely on the basis of the Agreement for Sale.

28. Mr. Karandikar submitted that unless the Petitioners obtain a decree for specific performance of the Agreement for Sale from the competent Civil Court, they cannot claim to be persons aggrieved by the orders passed by the authorities under the Tenancy Act. In his submission, the pendency of the suit or the existence of the Agreement for Sale does not give the Petitioners any right to challenge the orders under Section 32-G.

REASONS AND FINDINGS:

29. After hearing Mr. Damle and Mr. Dani, learned Senior Advocate for the Petitioners, and Mr. Karandikar, learned Advocate for the Respondents, and after considering the pleadings and the orders passed by the authorities below, the first question which arises is whether the Petitioners have sufficient interest in the subject property to challenge the orders passed under Section 32-G of the Bombay Tenancy and Agricultural Lands Act.

30. The Respondents oppose the Petitioners' right to challenge the orders on the ground that the Petitioners were not parties to the original tenancy proceedings. According to the Respondents, the Petitioners are relying only upon an Agreement for Sale. Their case is that unless the Petitioners obtain a decree for specific performance from the Civil Court, they cannot claim to be persons aggrieved by the order passed under Section 32-G.

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31. This submission cannot be accepted. It is true that an Agreement for Sale does not make a person the owner of the property. It is true that a person having only an Agreement for Sale cannot claim all the rights of an owner. But the question here is different. What has to be seen is whether the Petitioners have a legally recognisable interest in the property and whether the order passed under Section 32-G affects that interest.

32. In *Adi Pherozshah Gandhi v. H.M. Seervai (1970) 2 SCC 484*, the Supreme Court observed in paragraph 46:

> *"46. Generally speaking, a person can be said to be aggrieved by an order which is to his detriment, pecuniary or otherwise or causes him some prejudice in some form or other."*

33. Thus, the main thing to be seen is whether the impugned order causes real prejudice. A person cannot be required in every case to first obtain a declaration of ownership before he can show that the order affects his interest.

34. The same principle is found in *Baldev Singh v. Surinder Mohan Sharma (2003) 1 SCC 34*. In paragraph 15, the Supreme Court observed:

> *"A person aggrieved to file an appeal must be one whose right is affected by reason of the judgment and decree sought to be impugned."*

35. Therefore, the nature of the right and the effect of the order on that right have to be seen. The above principle cannot be read to mean that only an absolute owner can challenge an order concerning the property.

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36. The decision in *A. Subash Babu v. State of A.P (2011) 7 SCC 616* requires consideration. The Supreme Court has held that the expression “aggrieved person” does not have one fixed meaning. The Court observed:

> *“The expression ‘aggrieved person’ denotes an elastic and an elusive concept. It cannot be confined that the bounds of a rigid, exact and comprehensive definition. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of the complainant's interest and the nature and extent of the prejudice or injuries suffered by him.”*

37. Therefore, the Court has to look at the facts of the particular case. The documents relied upon by the Petitioners, the consideration paid by them, the nature of their transaction, the pending civil proceedings and the effect of the tenancy orders are relevant while deciding this question. In the present case, the Petitioners rely upon a registered Agreement for Sale dated 29 May 2007. They state that the total consideration was Rs.1,60,00,000/- and that the entire amount was paid. According to them, Rs.80,00,000/- was received by Smt. Shardabai Ganesh Oze and Rs.80,00,000/- was received by Mr. Wahid Hussain Shaikh as the Confirming Party. The Petitioners rely upon the Power of Attorney dated 19 October 2006. They state that after the Agreement for Sale was terminated, they filed Special Civil Suit No.329 of 2012 before the Civil Judge, Senior Division, Panvel. The said suit is still pending. There is an order passed by the Civil Court directing the parties to maintain status quo in respect of the suit property., while considering the question of

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locus, the Petitioners' claim cannot be treated as a claim having no connection with the property.

38. The submission of the Respondents that the Petitioners must first obtain a decree for specific performance cannot be accepted as an absolute rule. The Petitioners have filed a suit in which they are seeking enforcement of the transaction relied upon by them. Whether they will succeed in that suit is a matter for the Civil Court. This Court cannot assume at this stage that the Petitioners will fail in that suit. The question is whether the impugned tenancy order affects the Petitioners. If Respondent Nos.2 to 13 are declared purchasers under Section 32-G and the purchase price is fixed in their favour, the order concerns the same agricultural land in respect of which the Petitioners claim rights under their registered Agreement for Sale.

39. The Petitioners may not become owners merely because of the Agreement for Sale. But that does not mean that they have no interest at all. Their contractual interest in the same property is affected by an order which determines the rights of other persons in respect of that property.

40. The submission based upon Section 64 of the Act requires consideration. Mr. Karandikar relied upon Section 64 and submitted that it regulates the sale of agricultural land. Sub-section (1) provides:

> *"(1) Where a landlord intends to sell any land, he shall apply to the Tribunal for determining the reasonable price thereof."*

41. Sub-section (2) provides for making an offer to the tenant in actual possession and to other persons mentioned in the provision

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after the reasonable price is determined. Sub-section (8) provides:

> *"(8) Any sale made in contravention of this section shall be Invalid."*

42. There can be no doubt that Section 64 prescribes a procedure for sale of agricultural land and that the procedure has to be followed. But I do not find anything in Section 64 which says that merely because a person has an Agreement for Sale, he has no right to challenge an order passed under Section 32-G. Section 64 deals with the manner in which the sale is to be made and the consequence of a sale made contrary to the provision. Whether the Agreement for Sale of the Petitioners can be enforced is a different matter. Whether the transaction can result in transfer of ownership is a different matter. Those questions may be decided in the appropriate proceedings. For deciding the present issue, it is enough to hold that Section 64 cannot be used to say that a person who has a registered Agreement for Sale, claims to have paid the entire consideration and has filed a civil suit has no interest in the property. Whether the transaction is valid and enforceable can be decided by the competent Court. But the interest claimed by the Petitioners cannot be completely ignored while deciding whether they are prejudicially affected by an order concerning the same property.

43. There is another circumstance which cannot be overlooked. The Section 32-G proceedings concern the agricultural land in respect of which the Petitioners have their Agreement for Sale and in respect of which the civil suit is pending. Their interest is connected with the property involved in the tenancy proceedings.

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For this reason, the objection that the Petitioners were strangers to the original tenancy proceedings is not sufficient . The law recognises that a person who was not a party to the original proceedings can, in an appropriate case, challenge an order if he is prejudicially affected by it. In *Smt. Jatan Kumar Golcha v. Golcha Properties Private Limited (1970) 3 SCC 573*, the Supreme Court observed:

> *"It is well settled that a person who is not a party to the suit may prefer an appeal with the leave of the Appellate Court and such leave should be granted if he would be prejudicially affected by the Judgment."*

44. Similarly, in *State of Punjab v. Amar Singh (1974) 2 SCC 70*, the Court held:

> *"Firstly, there is a catena of authorities which, following the dictum of Lindley, L.J.,* in re Securities Insurance Co., *[[1894] 2 Ch. 410] have laid down the rule that a person who is not a party to a decree or order may with the leave of the Court, prefer an appeal from such decree or order if he is either bound by the order or is aggrieved by it or is prejudicially affected by it."*

45. Thus, the fact that the Petitioners were not parties to the original proceedings is not enough to reject their challenge. The Court has to see whether the impugned orders have caused or may cause legal prejudice to them. In the present case, the Petitioners have shown a specific transaction relating to the same property. They rely upon the registered Agreement for Sale, payment of substantial consideration, the Power of Attorney, the pending civil suit and the status quo order. Their grievance cannot be treated as an imaginary grievance.

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46. The judgment in *Baldev Singh* has to be understood in the facts in which it was decided. In that case, the person who wanted to challenge the compromise decree could not show any legal prejudice to himself. In the present case, the Petitioners have shown their connection with the property and the manner in which the impugned tenancy orders affect that property.

47. The Petitioners have raised an objection regarding the authority of the persons who appeared in the tenancy proceedings. Mr. Damle submitted that Shri Dilip Shankar Pawar had acted as a Power of Attorney holder, although, on 29 March 2007, Respondent Nos.1 to 6 had executed a Power of Attorney in favour of other persons. It was submitted that the Power of Attorney of Shri Mahadu Balu Vajekar had been revoked and cancelled and that an Advocates' notice dated 5 July 2010 and a public notice dated 6 July 2010 had been issued in that regard.

48. Whether the Power of Attorney was actually revoked, whether the concerned person had authority after such revocation and what was the effect of the revocation are questions which have to be decided from the documents and the record. If a person had no authority to represent a party and still appeared before the authority, the effect of such appearance upon the proceedings would require examination. The Petitioners have relied upon the earlier proceedings under Section 32-G. According to them, those proceedings had been dropped and Mutation Entry No.770 was not challenged by Respondent Nos.2 to 13. They state that the purchase price had not been fixed earlier and that the later claim of tenancy was not consistent with the earlier revenue record.

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Before passing a subsequent order under Section 32-G, the tenancy authority was required to consider the earlier proceedings and the relevant revenue record. A later application cannot make the earlier proceedings disappear from consideration.

49. The Petitioners submitted that the A.L.T. did not properly examine the record and proceeded to fix the purchase price. This submission requires consideration. Proceedings under Section 32-G have serious consequences. Before fixing the purchase price and recognising the right of a person to purchase the land, the authority has to examine the relevant facts and the legal position of the persons claiming such right.

50. The Petitioners contend that they were not given an opportunity of hearing and that the statements of the concerned persons were not properly recorded. This objection is important because the Petitioners claim that their interest arose from documents executed before the order dated 22 February 2011. Once such interest was brought before the authority, the authority was required to consider whether the Petitioners were required to be heard before passing an order concerning the same property. I am not holding that the Petitioners are the owners of the property. I am not holding that their Agreement for Sale is enforceable. These questions are to be decided by the competent Civil Court. The finding being recorded here is limited to the question of interest and prejudice. On that question, the Petitioners have shown a real legal interest in the property and the orders under Section 32-G concern the same property.

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51. The subsequent withdrawal of Revision Application No.243 of 2012 is one of the circumstances relied upon by the Petitioners. According to them, Smt. Savita K. Chopra filed a pursis dated 3 April 2014 seeking withdrawal of the Revision Application as the General Power of Attorney holder of Smt. Shardabai G. Oze. The Petitioners contend that the Power of Attorney did not give her authority to withdraw the proceedings before the Tribunal. The Tribunal permitted withdrawal of the Revision Application. Thereafter, Review Application No.2 of 2015 was filed. The same was disposed of on 18 June 2015 by observing that the deceased Respondent No.1 had allegedly executed the Power of Attorney in favour of the Applicant, who was no more, and the Review Application would not survive. For deciding the present issue, it is not necessary to decide every question concerning the validity of withdrawal of the earlier Revision Application. That issue is part of the background. What is material is that the Petitioners had brought their interest in the property before the Tribunal and had sought permission to participate. Their subsequent challenge could not be rejected only because they were not parties to the original tenancy proceedings, without considering whether the orders caused prejudice to them.

52. The principle stated in *Srimathi K. Ponnalagu Ammani v. The State of Madras AIR 1953 Mad 485* is relevant. The Court observed:

> *"Now, what is the test to find out when it would be proper to grant leave to appeal to a person not a party to a proceeding against the decree or judgment in such proceedings? We think it would be improper to grant leave to appeal to every*

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person who may in some remote or indirect way be prejudicially affected by a decree or judgment. We think that ordinarily leave to appeal should be granted to persons who, though not parties to the proceedings, would be bound by the decree or judgment in that proceeding and who would be precluded from attacking its correctness in other proceedings."

53. The Petitioners' case is not of a person who has some distant connection with the property. Their interest arises from a specific transaction relating to the same property. The impugned orders concern that property and may affect the subject matter of their pending civil proceedings.

54. The submission of Mr. Karandikar that the Petitioners must first succeed in the suit for specific performance cannot be accepted. If the tenancy order is allowed to remain without considering the Petitioners' asserted interest, it may affect the same property which is the subject matter of the civil suit. The Petitioners cannot be required to first obtain a civil decree when the order which they are challenging may affect the subject matter of that suit. The tenancy proceedings and the civil suit may be proceedings under different laws and may involve different reliefs. But the pendency of the civil suit does not take away the Petitioners' right to challenge an order under the Tenancy Act which affects the property in which they claim an existing interest.

55. I find that the Petitioners have sufficient interest to maintain the present challenge. Their Agreement for Sale does not make them owners. That position is clear. But ownership is not the only test for deciding whether a person is aggrieved. The registered

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Agreement for Sale, the claim of payment of the entire consideration, the Power of Attorney, the pending civil suit and the status quo order, when considered together, show that the Petitioners have an existing and substantial interest in the property. The orders passed under Section 32-G concern the same property and are capable of causing prejudice to their legal interest.

56. I find that Section 64 cannot be used as a ground to reject the Petitioners' challenge. Whether the transaction relied upon by the Petitioners is valid is one question. Whether the Petitioners are persons aggrieved by the orders passed in the tenancy proceedings is another question. The first question may be decided by the competent Court in the appropriate proceedings. On the second question, considering the facts of the present case, the Petitioners have shown sufficient interest.

57. The next question is whether the orders passed by the A.L.T. and passed by the S.D.O. can be sustained on the other objections raised by the Petitioners. The material placed before the Court shows that there are important questions concerning the earlier Section 32-G proceedings, the authority of the persons who represented the concerned parties, the alleged revocation of the Power of Attorney, the earlier revenue entries, the notices issued to the parties and the manner in which the purchase price came to be fixed. These matters go to the basis of the proceedings and could not have been treated as minor matters. The order passed by the A.L.T. does not show proper consideration of all these aspects. The earlier proceedings and revenue entries required examination. The authority of the persons appearing before the A.L.T. required

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verification. The claim of Respondent Nos.2 to 13 to purchase the land required consideration with reference to the earlier proceedings and the applicable provisions of law. The mere filing of an application under Section 32-G could not establish that the applicants were entitled to purchase the land. The authority was required to first determine their legal entitlement and then proceed according to law.

58. On considering all the material submissions together, I find that the Petitioners have established a substantial grievance. Their locus is established. The impugned orders concern the property in respect of which they claim contractual rights and in respect of which a civil suit is pending.

59. The impugned order passed by the Maharashtra Revenue Tribunal cannot be sustained merely on the ground that the Petitioners were not parties to the original tenancy proceedings or that they had not obtained a decree for specific performance. The Tribunal was required to consider the Petitioners' interest, the prejudice caused to them and the objections raised regarding the legality of the proceedings before the A.L.T. and the S.D.O.

60. On the total material, I find that the orders passed by the A.L.T. and passed by the S.D.O. could not have been allowed to stand without proper consideration of the material issues raised by the Petitioners. The impugned order does not satisfactorily deal with these issues.

61. The finding recorded in the present judgment is confined to the tenancy proceedings and to the Petitioners' right to challenge

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the orders which affect their asserted interest in the property.

62. In view of the foregoing discussion, and upon overall assessment of the material record, the following order is passed:

(a) Both the Writ Petition are allowed;

(b) The impugned orders dated 29 March 2016 and 7th March 2017 passed by the learned Maharashtra Revenue Tribunal, Mumbai in Revision Application Nos.147 and 223 of 2014 are quashed and set aside. Consequently, the orders passed by the A.L.T., Panvel and passed by the Sub Divisional Officer, Panvel Sub Division are quashed and set aside;

(c) Revision Application Nos.147 and 223 of 2014 are restored to the file of the learned Maharashtra Revenue Tribunal, Mumbai for fresh consideration in accordance with law;

(d) The learned Maharashtra Revenue Tribunal shall consider the Revision Applications afresh after giving effective opportunity of hearing to the Petitioners, Respondent Nos.1 to 15 and all other persons who are found to be necessary parties for deciding the controversy;

(e) The learned Maharashtra Revenue Tribunal shall decide the Revision Applications on its own merits and in accordance with law, without being influenced by any observations made in the present judgment except to the extent specifically decided herein regarding the Petitioners' locus to challenge the impugned tenancy orders.

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63. It is clarified that this Court has not adjudicated upon the final ownership of the subject property, the validity or enforceability of the Agreement for Sale relied upon by the Petitioners, or the Petitioners' entitlement to specific performance. All such questions shall remain open for determination by the competent Civil Court in the pending proceedings.

64. It is clarified that the learned Maharashtra Revenue Tribunal shall decide the Revision Application on the basis of the material and contentions available before it and shall not treat the pendency of Special Civil Suit No.329 of 2012 as either creating or extinguishing the rights of any party in the tenancy proceedings.

65. The learned Maharashtra Revenue Tribunal shall endeavour to decide the restored Revision Applications expeditiously and, as far as possible, within a period of six months from the date of appearance of the parties before it.

66. The parties shall appear before the learned Maharashtra Revenue Tribunal on 7th September 2026. No separate notice shall be required if the parties are represented before this Court and are informed of the date of appearance.

67. All contentions of the parties on the merits of the Revision Application are kept open, subject to the findings recorded in this judgment.

68. Both the Writ Petitions are disposed of in the above terms. There shall be no order as to costs.

(AMIT BORKAR, J.)

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