AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.9342 OF 2016

Atmaram Namdev Patil … Petitioner

V/s.

Manakchand Chunnilal Munot, since deceased through legal heirs … Respondent

ATUL GANESH KULKARNI

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Date: 2026.10.19 19:27:11 +0530

Mr. Rahul Thakur for the Petitioner.

Mr. Shashank C. Mangle with Mr. Tanmay M. Shembavanekar for Respondent Nos.1A and 1B.

Smt. Mamta S. Srivastava for Respondent No.2-State.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 19, 2026

P.C.:

1. The present writ petition arises out of proceedings under Section 32-G of the Maharashtra Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as "the Act"). According to the Petitioner, his predecessor-in-title was a protected tenant in respect of agricultural land bearing Survey No.260, Hissa No.1, admeasuring 25 gunthas, situated at Village Sai, Taluka Panvel, District Raigad. The rights claimed by the Petitioner arise from the proceedings initiated for determination of the purchase price of the said land under the provisions of the Act.

2. According to the Petitioner, after following the procedure prescribed under the Act and the Rules framed thereunder, the

Tahsildar and Agricultural Lands Tribunal (ALT), by order dated 16 March 1985, determined the purchase price of the land under Section 32-G of the Act. The Petitioner contends that the said order specifically records that both parties were present at the time of the enquiry. However, after a lapse of about 24 years, the landlord preferred an appeal under Section 74 of the Act in the year 2009, without filing any application seeking condonation of delay. The Sub-Divisional Officer set aside the order determining the purchase price and remanded the proceedings to the Tahsildar and ALT. In a further challenge, the Maharashtra Revenue Tribunal, after hearing the parties, set aside the order passed by the Sub-Divisional Officer and directed the latter to decide the question of condonation of delay. Aggrieved by the said order of the Maharashtra Revenue Tribunal, the Petitioner has approached this Court.

3. Learned Advocate appearing for Respondent Nos.1A and 1B, inviting my attention to the observations made by the Maharashtra Revenue Tribunal in paragraphs 8 and 9 of its order, submitted that the Tribunal was justified in examining the original record of the proceedings under Section 32-G of the Act. According to him, the original record does not indicate that notice was issued to the landlord. In the absence of any material establishing service of notice upon the landlord, the question whether the landlord had knowledge of the order dated 16 March 1985 required reconsideration. He further submitted that the consequences of the order determining the purchase price under Section 32-G of the Act became apparent to the landlord only shortly before the appeal was filed. In these circumstances, according to the learned

Advocate, the Maharashtra Revenue Tribunal rightly remanded the matter to the Sub-Divisional Officer for fresh consideration of the question of condonation of delay.

4. I have considered the submissions advanced on behalf of the parties and perused the certified copy of the order dated 16 March 1985. The said order specifically records that "both parties were present at the time of enquiry." This is a clear statement recorded by the authority conducting the proceedings regarding the presence of the parties at the enquiry. Such a statement relates to the happenings before the Court or Tribunal and cannot be lightly disregarded in subsequent proceedings. The issue is governed by the principle laid down by the Supreme Court in *State of Maharashtra vs. Ramdas Shrinivas Nayak, 1982 (2) SCC 463*. In that case, the Supreme Court considered the manner in which a dispute concerning the happenings before a Court is required to be raised and decided. The Supreme Court held, in substance, that where a Court records what transpired before it, the correctness of such a record must be brought to the notice of the same Court immediately. The aggrieved party must approach that Court while the events are still fresh in its memory. A subsequent proceeding before a superior Court cannot ordinarily be used to reopen the question of what transpired before the lower Court without first bringing the alleged error to the notice of that Court.

5. In the present case, the order dated 16 March 1985 records the presence of both parties at the enquiry. However, there is nothing to indicate that the landlord approached the authority which passed the said order immediately thereafter, alleging that

the recording of his presence was incorrect. No such application was filed even before the appeal was preferred in the year 2009. The landlord thus allowed a considerable period of time to pass without seeking correction or clarification from the authority which recorded the fact of his presence. In these circumstances, the question of knowledge cannot be reopened merely by relying upon the absence of a separate reference to the issuance or service of notice in the original record, particularly when the order itself contains a specific recital regarding the presence of both parties at the enquiry.

6. The course adopted by the Maharashtra Revenue Tribunal, in directing the Sub-Divisional Officer to reconsider the question of condonation of delay by examining the circumstances surrounding the original enquiry, would have the effect of permitting a subsequent authority to reopen the correctness of the record regarding the happenings before the original authority. Such a course is contrary to the principle laid down by the Supreme Court in *Ramdas Shrinivas Nayak (supra)*. If the landlord disputed the statement recorded in the order dated 16 March 1985 regarding his presence at the enquiry, the proper course was to approach the authority which passed that order and seek correction at the earliest opportunity. In the absence of any such attempt, the issue could not have been reopened in the manner directed by the Maharashtra Revenue Tribunal. The direction to reconsider the question of condonation of delay, on the basis of such an enquiry into the happenings before the original authority, therefore, cannot be sustained. The impugned order suffers from an error

warranting interference in the exercise of writ jurisdiction.

7. In view of the above discussion, the impugned order dated 17 November 2015 passed by the Maharashtra Revenue Tribunal, Mumbai, is quashed and set aside.

8. The writ petition is allowed in the above terms. There shall be no order as to costs.

9. At this stage, learned Advocate appearing for Respondent Nos.1A and 1B requested that liberty be granted to the Respondents to approach the original authority for clarification regarding the presence of the landlord at the enquiry. Having considered the request, I am unable to grant such liberty. The order in question was passed on 16 March 1985, and the request is being made after the lapse of about 40 years. No timely application was made before the authority which recorded the presence of both parties, nor was any such grievance raised before filing the appeal. Permitting such a course at this belated stage would defeat the principle laid down by the Supreme Court in *Ramdas Shrinivas Nayak (supra)*. The request for grant of liberty is, therefore, rejected.

(AMIT BORKAR, J.)