

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 8642 OF 2013**

**Shri Kisan Bhimaji Khopade**

**..Petitioner**

**Vs.**

**Shri Madhukar Shankar Palshikar**

**(since deceased) through Lrs & Ors.**

**..Respondents**

**Mr. P. B. Shah for the Petitioner**

**Mr. Prathamesh Bhargude for the Respondent Nos.1A to 1H, 3 & 4**

**CORAM : R. M. SAVANT, J.**

**DATE : 9<sup>th</sup> MARCH, 2016**

**P.C.**

1 Heard the Learned Counsel for the parties.

2 The orders passed by the authorities below i.e. the Tahsildar and the ALT and the Sub Divisional Officer (SDO) allowing the application under Section 70(b) of the Bombay Tenancy and Agricultural Land Act, has been set aside by the impugned order passed by the Maharashtra Revenue Tribunal (MRT). The Respondents i.e. the landlords seek to rely upon the Nokarnama dated 4-6-1959 executed in favour of one Shripati Savla Khopade who is the Uncle of Kisan Khopade. Apart from the dispute as to whether the Petitioner herein is connected to the said Shripati Khopade, the dispute is also as regards whether the said document was produced before the ALT and the SDO as there is no reference to the said document in the orders passed by the said authorities, but there is a reference only in the order passed by the MRT.

3           Be that as it may, the two authorities i.e. ALT and the SDO in Appeal have passed orders in favour of the Petitioner herein. However as indicated above the said orders have been upset by the orders passed by the MRT principally on the ground that the Petitioner has not produced any evidence by way of rent receipts or tenancy agreement or payment of land revenue to buttress his claim of tenancy. The said finding is sought to be countered by relying upon Section 4 of the said Act. Hence an arguable issue arises as to whether the Petitioner is entitled to the declaration of tenancy. Since the document if has been produced before the courts below, would have an defining impact on the proceedings, records and proceedings would have to be called for.

4           Hence Rule. The order of status-quo dated 3-10-2013 would continue to operate. The record and proceedings be called from the MRT, Pune. After the record and proceedings are received and considering the narrow controversy involved the parties are at liberty to apply for hearing of the above Petition.

**[R.M.SAVANT, J]**