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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5091 OF 2022

Dnyaneshwar Alias Dnyanu Rakhmaji Chaudhari
(Deceased through Legal Heirs)

.. Petitioners

Versus

Haribhau Baburao Padwal and Ors.

.. Respondents

-
- Mr. P.B. Gujar, Advocate for Petitioners
 - Mr. Karan Bapat, Advocate for Respondent Nos.1 to 11.
 - Ms. P.J. Gavhane, AGP for the State.
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CORAM : MILIND N. JADHAV, J.

DATE : JUNE 30, 2025.

P.C.:

1. Heard Mr. Gujar, learned Advocate for Petitioners; Mr. Bapat, learned Advocate for Respondent Nos.1 to 11 and Ms. Gavhane, learned AGP for the State.

2. Preliminary objection is raised by the Respondents in the present Petition. Mr. Bapat would submit that appended at page No.33 is the order dated 30.07.1983 passed in previous proceedings which were filed by the son of the present Petitioner for seeking tenancy. Those proceedings were invoked in the year 1980 and culminated by virtue of the order dated 30.07.1983 which held that the Applicant therein was not a tenant.

3. Learned Advocate for Respondents would submit that the present Writ Petition challenges the order dated 21.09.2019 passed by the MRT in Revision Proceedings which emanates from the 32G of the Maharashtra Tenancy and Agricultural Lands Act,1948 (for short “**the said Act**”) proceedings filed before the Tahasildar / ALT in the year 1996. Contention of the Advocate for Respondents is that both the proceedings were in respect of the same property and by family members of the same family.

4. According to the learned Advocate for Petitioners both the proceedings will have to be seen in different light. *Prima facie* if what the Advocate for Respondents is submitting is correct, then the subsequent proceedings in the year 1996 would be barred by the provisions of constructive *res judicata* in my opinion.

5. That apart, if it is the contention of the Petitioners that they are protected tenants, Petitioners will have to show that in the first instance they had filed appropriate proceedings as they would be entitled under the law for declaration of they being protected tenants, they have paid the sale price fixed by the Tahasildar / ALT after following the due process of law and the sale certificate having been granted to them under Section 32M of the said Act. If the Petitioner are unable to show the aforesaid, then the order passed by the MRT will have to be upheld.

6. Needless to state that this Court shall hear both the Advocates on the next adjourned date and pass appropriate orders.
7. Stand over to **14th July 2025**.
8. In the meanwhile, ad-interim relief granted earlier, if any, shall continue.

[MILIND N. JADHAV, J.]

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