

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3517 OF 1989

NILKANTH K CHAUDHARI AND OTHERS.
VERSUS
SMT YAMUNABAI P DEOGIRIKAR AND OTHERS.

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Advocate for the Petitioners : Shri S.P.Shah h/f Shri D.P.Palodkar.
AGP for Respondents 1, 2 and 3 : Shri C.P.Deogirikar, Respondent No.2 in
person.

Advocate for Respondents 5A to 5A and 7 : Shri D.G.Nagode.

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CORAM: RAVINDRA V. GHUGE, J.
DATE :- 05th July, 2018

Per Court:

1 On 07.04.2016, before this Court took up this petition for final hearing, the litigating sides were called upon to make a statement as to whether, this proceeding is connected with the pending Special Leave Petition No.28635/2009 before the Honourable Supreme Court.

2 Shri Deogirikar, Respondent No.2 in person, appearing on behalf of Respondent Nos.1 and 3, made the statement, which was recorded in paragraph 3 of the order dated 07.04.2016, which reads as under :-

"3. *Mr.Deogirikar, respondent No.2 in person submits that his Second Appeal No.142/1989 has been dismissed by this Court by judgment dated 03.07.2009. Special Leave Petition No.28635/2009 is pending before the Hon'ble Supreme Court posing a challenge to the judgment dated 03.07.2009. He, however, submits that the result of the proceedings before the Hon'ble Supreme Court would not in any*

way impact his rights or rights of any litigating sides in this pending writ petition and hence this petition can be heard on its own merits notwithstanding the pending SLP."

3 In the light of the above, the hearing in this matter commenced today and after hearing of about two hours, the following statements were made by Shri Deogirikar :-

- (a) The impugned judgment of the Maharashtra Revenue Tribunal cannot be faulted merely on the ground that it was delivered on the basis that Special Civil Suit No.270/1978 was decreed on 30.04.1985.
- (b) Nilkanth, who was the grandson-in-law of Govind Appacharya, had purchased the properties on the basis of three sale deeds since he was the tenant of Govind. If he is not a tenant, he could not have purchased the land.
- (c) The appeal before the Honourable Supreme Court filed by these Respondents is based on the contention that the Civil Court failed to refer the tenancy issue to the Tenancy Court in Special Civil Suit No.270/1978 and therefore, the judgments of the First Appellate Court dated 31.08.1988 and the Second Appellate Court (this Court) dated 03.07.2009 deserve to be set aside.
- (d) The statement, therefore, cannot be made that this

proceeding is completely unconnected with SLP No.28635/2009 and this Respondent is not willing to make the statement that the result in the said SLP will not in any way impact the result in this petition.

4 Considering the above statement, Shri Deogirikar submits that this matter may be treated as part heard and further hearing may be kept in abeyance as he desires to take steps before the Honourable Supreme Court for the final hearing in the said SLP.

5 Shri Shah, learned Advocate, makes a solemn statement that the above said contentions of Shri Deogirikar are misconceived and this case has nothing to do with the pending SLP before the Honourable Supreme Court.

6 In view of the above, I find it appropriate to allow Shri Deogirikar to take steps with regard to the pending SLP before the Honourable Supreme Court.

7 The parties are at liberty to circulate the matter after the decision of the Honourable Supreme Court.