

Appa Narsappa Magdum (dead) through LRs

Vs

Akubai Ganapathi Nimbalkar

Civil Appeal No. 8993 of 1994

(G.T. Nanavati, S.N. Phukan JJ)

04.05.1999

JUDGMENT

G.T. Nanavati, J.

1. In this appeal, the appellant, who was a tenant of Shevantibai, is questioning the order passed by the Bombay High Court dismissing his Writ Petition, within he had questioned the legality of the order passed by the Maharashtra Revenue Tribunal confirming the order passed by the Sub-Divisional Officer, Karvir Division, Kolhapur in TNC Appeal No. 192/79.

2. As landlady- Shevantibai was a widow, the deemed date of statutory purchase by the appellant - tenant was postponed. It is not in dispute that his right to purchase the land was for that reason governed by the provisions of Section 32F of the Bombay Tenancy and Agricultural Lands Act, 1947. Shevantibai died on 8.12.1965. The appellant thereafter on 15.6.1968 gave an intimation to the heirs of Shevantibai that he was interest in purchasing the land under Section 32F of the Act. On 9.7.1968, the legal representatives of Shevantibai applied under Section 32P of the Act for a declaration that as the tenant had not complied with the requirements of Section 32IF the sale has become ineffective and therefore the possession of land may be restored to them as their holding was less than the ceiling area. The Tehsildar granted that application. Aggrieved by that order, the appellant filed an appeal to the Sub-Divisional Officer who allowed it and remanded the case for deciding it under Section 32G of the Act. Therefore, the heirs of Shevantibai filed a Revision Petition before the Maharashtra Revenue Tribunal and contended that since the tenant had failed to exercise his right under Section 32F within the stipulated period, the purchase had become ineffective and, therefore, the Sub-Divisional Officer was in error in allowing the appeal and sending the matter back to the Tehsildar for deciding the same under Section 32G. The Tribunal accepted this contention and allowed the Revision Application and restored the order passed by the Tehsildar. The High Court in the Writ Petition filed by the appellant confirmed the order passed by the Tribunal.

3. Even if we agree with the contention raised on behalf of the appellant that inspite of the earlier decision of the High Court, it was open to the appellant to contend that he was a tenant and had right to purchase the land under Section 32 F of the Act, it is difficult to appreciate how the impugned order passed by the High Court is wrong. Section 32F provides that in the case where the landlord is a widow, the tenants shall have right to purchase such land under Section 32 within one year from the expiry of the period during which such landlord is entitled to terminate the tenancy under Section 31. The landlady died on 8.12.1965. Her successors-in-interest could have filed an application for termination of tenancy within one year from 8.12.1965 as her interest in the land cased to exist from that date. Therefore, the tenant ought to have exercised his right under Section

32F before 8.12.1966. Admittedly, the appellant did not comply with this requirement of Section 32F. The intimation contemplated by Section 32F(1)(a) was given by him long after one year had passed. It was given for the first time on 15.6.1968. It was after his right to purchase the land had come to an end.

4. It was submitted by the learned Counsel that this being a welfare legislation enacted for the benefit of tenants should be construed in a liberal manner. He also submitted that the heirs of the landlady had not given any intimation to the appellant about her death and therefore he could not have known who were the heirs of the landlady and given intimation to them. He submitted that the period of one year should be counted from the date of the knowledge of the tenant. We cannot accept this submission because language of the Section 32F and 31 is quite clear and the period of one year will have to be counted in accordance with the said provisions and not from the date of the knowledge of the tenant. The provision of law being clear, we cannot in such a case grant relief on the basis of equity.

5. In our opinion, the High Court was right in dismissing the writ petition. This appeal fails and is dismissed. The appellant shall had over possession as directed by the Tehsildar within one moth from today.