

(1999) 08 SC CK 0166
In the Supreme Court Of India
Case No : Civil Appeal No. 4749 Of 1999

Mahadeo	Vs	APPELLANT
Gajanan Pandurang Kulkarni		RESPONDENT

Date of Decision : 27-08-1999

Acts Referred:

Bombay Tenancy and Agricultural Lands Act, 1948 — Section 32G, 32P

Citation : (2000) 9 SCC 494

Hon'ble Judges : S. B. Majmudar, J; R. P. Sethi, J; D. P. Mohapatra, J

Bench : Full Bench

Final Decision : Allowed

Judgement

1. Leave granted.
2. We have heard learned counsel for the parties finally in this appeal.
3. A short question arises for our consideration, as to whether the land alleged to be purchased by the appellant tenant as deemed purchaser on 1-4- 1957 could be surrendered to the landlord under Section 32-P of the Bombay Tenancy and Agricultural Lands Act, 1948 (for short "the Act") when the proceedings under Section 32-G of the Act were declared ineffective by order of Additional Tahsildar on account of his absence on a particular day before the Additional Tahsildar. That order stood confirmed in the hierarchy of proceedings up to the High Court. Thereafter, the appellant came before this Court and this Court by its order dated 22/11/1996 allowed the appeal and quashed the orders under Section 32-G(3) of the Act making the purchase ineffective and remanded the proceedings to the Additional Tahsildar for fresh decision under Section 32-G of the Act. It was also directed that in case the Additional Tahsildar comes to the conclusion that the appellant is entitled to purchase the land he should be put into possession of the land immediately. This direction seems to have been issued for the simple reason that pursuant to the earlier order under Section 32-G(3) making the purchase ineffective, the respondent landlord under Section 32-P of the Act got order in his

favour and obtained possession. It is obvious that the said order was a consequential order in the light of purchase becoming ineffective under Section 32-G(3) of the Act. The said order was also in its turn challenged by the appellant in the hierarchy of proceedings. The High Court by the impugned order confirmed the same in the light of its decision of the even date in 32-G proceedings. Once the order under Section 32-G(3) is set aside by this Court by order of 22/11/1996 it is obvious that order under Section 32-P of the Act, which is a consequential order, would not survive. Only on this short ground, the appeal is allowed and the consequential order under Section 32-P of the Act as confirmed by the High Court is set aside. Section 32-P proceedings are also remanded to the Additional Tahsildar before whom Section 32-G proceedings as remanded by this Court are pending. It is clarified that if the remanded proceedings under Section 32-G pursuant to the order of this Court in Mahadeo decided on 22/11/1996 ultimately result against the appellant, then obviously the order under Section 32-P which was earlier passed, may remain operative against the appellant and Section 32-P proceedings then would be treated as decreed in favour of the respondent landlord.

4. If on the other hand, the remanded proceedings under Section 32-G result in favour of the appellant then the proceedings under Section 32-P would not survive and would stand dismissed and the respondent landlord will have to restore possession of the land to the appellant as directed by this Court by order dated 22/11/1996.

5. It is also made clear that if any of the parties is aggrieved by the order passed in Section 32-G proceedings as remanded by this Court, it will be open to such party to carry the matter in appeal and further proceedings in the hierarchy.

6. The civil appeal is allowed accordingly.

7. No costs.