

**(1998) 11 SC CK 0060**  
**In the Supreme Court Of India**  
**Case No : C.A. No. 9101 of 1995**

Rangnath Vishnu Mulluck and Anr

APPELLANT

Vs

Vithoba Rama Rahane and Ors

RESPONDENT

**Date of Decision :** 10-11-1998

**Acts Referred:**

Bombay Tenancy and Agricultural Lands Act, 1948 — Section 29, 32G, 84

**Citation :** (1998) 8 AD 353 : AIR 1999 SC 534 : (1998) AIRSCW 3834 : (1998) 8 JT 59 : (1998) 6 SCALE 189 : (1999) 1 SCC 69 : (1998) 8 Supreme 457 : (1999) 1 UJ 584

**Hon'ble Judges :** S. Rajendra Babu, J;G. T. Nanavati, J

**Bench :** Division Bench

**Final Decision :** Disposed Of

## Judgement

Nanavati, J.—The appellants who were the purchasers from the landlord have filed this appeal against the judgment or the High Court in writ petition No. 799 of 1982.

2. The respondent-Vithoba was the tenant of nine pieces of lands. In respect of five lands proceedings were initiated u/s 32G of the Bombay Tenancy and Agricultural Lands Act in the year 1962. On the basis of the statement alleged to have been made by the tenant on 5.8.1962 expressing his unwillingness to purchase those lands, an order was passed declaring the statutory sale ineffective. The landlord obtained possession of those five lands on the basis of the said order. So far as the other four lands are concerned, there was no order in favour of the landlord and yet he took over possession of those lands also. The tenant, therefore, filed an application u/s 84 of the Act for summary eviction of the landlord from those lands. The Agriculture Lands Tribunal dismissed the same on the ground that the proper remedy for the tenant was to make an application u/s 29 of the Act and not u/s 84. The appeal against that order was dismissed. The Revision Application made to the Revenue Tribunal was also dismissed. The High Court allowed the writ petition on the ground that the tenant had not

surrendered his tenancy rights in respect of those lands and the landlord had not obtained possession thereof in a lawful manner. Since the landlord was in unauthorised possession of those lands as he had no right to retain the same, the application made by the tenant u/s 84 was held proper and maintainable.

3. In our opinion, the High Court was justified in reversing the orders of the authorities below and allowing the writ petition. The High Court was also justified in passing an order of eviction against the appellants as they had no right to retain possession of the said lands. This appeal is, therefore, dismissed.