

Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1829 OF 2014

SAYALI
DEEPAK
UPASANI

Digitally signed by
SAYALI DEEPAK
UPASANI
Date: 2026.01.21
13:57:17 +0530

1. Shri Bharat Govind Patil, Age 51
2. Shri Deepak Govind Patil,
3. Smt. Meena Govind Patil,
4. Smt. Jaya Yeshwant Patil,

All R/o. Mire, Taluka & District -Thane
All through their Power of Attorney
Holder Shri Dilip Jakha
Mhatre R/o. Penkarpada (Mira Gaon), ...Petitioners(Orgi.
Taluka & District- Thane Applicants)

V/s.

1. Shri Jairaj Devidas
2. Shri Mahendra Devidas
3. Shri Devidas Sunderdas
Since deceased through LRs:
Respondent Nos. 1 & 2 Above
Hence name of Sr. No.3 Deleted.
4. Shri Tulsidas Khatav
Since deceased through LRs.
a) Jayant Tulsidas Khatav
b) Ashwin Tulsidas Khatav
c) Shri Padamshi Khatav
Since deceased through LRs.
a) Shri Silip Padamshi Khatav
b) Shri Harish Padamshi Khatav

5. Shri Ranjit Ramdas

Since deceased through Lr:

a) **Hemant Ranjit Ramdas**

6. Shri Trikumdas Jethabhai

Since deceased through LR:

a) **Shri Kishore Krishna kumar**

7. Shri Krisnakumar Jethabhai

Since deceased through LR:

a) **Kishore Krishnakumar Jethabhai**

8. Shri DharmshiJethabhai

Since deceased through LR:

a) **Shri Vinay Dharmshi**

9. Shri Hansraj Jethabhai

Since deceased through LRs'

(a) **Shri Krishnabhai**

Hansraj Jethabhai

(b) **Shri Janak Hansraj Jethabhai**

10. Shri Chaturbhuj Jethalal Khatav

All Sr. Nos. 1 to 10 R/o. 220, Krishna

Chowk, M.J. Market, Mumbai -400 002. **Respondents(Org. Respondents)**

**WITH
WRIT PETITION NO.1830 OF 2014**

1. Shri Bharat Govind Patil, Age 51

2. Shri Deepak Govind Patil,

3. Smt. Meena Govind Patil,

4. Smt. Jaya Yeshwant Patil,

All R/o. Mire, Taluka & District -Thane

All through their Power of Attorney

Holder Shri Dilip Jakha

Mhatre R/o. Penkarpada (Mira Gaon),

...Petitioners(Orgi. Applicants)

Taluka & District- Thane

V/s.

1. Shri Jairaj Devidas

2. Shri Mahendra Devidas

3. Shri Devidas Sunderdas

Since deceased through LRs:

Respondent Nos. 1 & 2 Above

Hence name of Sr. No.3 Deleted.

4. Shri Tulsidas Khatav

Since deceased through LRs.

a) Jayant Tulsidas Khatav

b) Ashwin Tulsidas Khatav

c) Shri Padamshi Khatav

Since deceased through LRs.

a) Shri Silip Padamshi Khatav

b) Shri Harish Padamshi Khatav

6. Shri Ranjit Ramdas

Since deceased through Lr:

a) Hemant Ranjit Ramdas

7. Shri Trikumdas Jethabhai

Since deceased through LR:

a) Shri Kishore Krishna kumar

8. Shri Krisnakumar Jethabhai

Since deceased through LR:

a) Kishore Krishnakumar Jethabhai

9. Shri DharmshiJethabhai

Since deceased through LR:

a) Shri Vinay Dharmshi

10. Shri Hansraj Jethabhai

Since deceased through LRs'

(a)Shri Krishnabhai
Hansraj Jethabhai
(b) Shri Janak Hansraj Jethabhai

11. Shri Chaturbhuj Jethalal Khatav

All Sr. Nos. 1 to 10 R/o. 220, Krishna
Chowk, M.J. Market, Mumbai -400 002. **Respondents(Org. Respondents)**

Mr. A. R. Gole, for Petitioners.

Mr. K. S. Dewal with Yash Dewal, for Respondent Nos. 1, 2, 4.3.1, 4.3.2, 6.17, 8.1, 9.1, 10A, 10B, for Respondent in WP 1829/2014 .

Mr. K. S. Dewal with Yash Dewal, for Respondent Nos. 1, 2, 4.3.1, 4.3.2, 6.17, 8.1, 9.1, 10A, 10B, and 11 for Respondent in WP 1830 /2014 .

CORAM : AMIT BORKAR, J.

RESERVED ON : JANUARY 08, 2026

PRONOUNCED ON : JANUARY 21 , 2026

JUDGMENT.:

1. This petition is under Article 227 of the Constitution. The petitioners challenge the judgment and order dated 19 October 2013 passed by the Maharashtra Revenue Tribunal in Revision No. 272/B/2012. The revision arose from proceedings under Section 32G of the Maharashtra Tenancy and Agricultural Lands Act 1948.

2. The dispute arises from proceedings under the said Act. The petitioners state that Govind Babaji Patil was a protected tenant of land bearing old Survey No. 130/1 and new Survey No. 6/1 at village Mire, Taluka and District Thane. On 14 March 1936, the

authorities recorded his name as a protected tenant by Mutation Entry No. 479. On 14 November 1963, in proceedings under Section 32G before the Additional Mamlatdar and Agricultural Land Revenue, Thane, the Competent Authority recorded his statement. He stated that his name was mistakenly shown as tenant and that the owner cultivated the land through labourers. He requested deletion of his name as tenant. The Agricultural Lands Tribunal, by order dated 14 January 1964, directed removal of his name from the revenue record.

3. In 1997, the petitioners started proceedings under Section 32G for fixation of purchase price of the same land. In those proceedings, on 6 October 2001, the petitioners sought time to file an appeal against the order dated 14 November 1963 deleting the name of Govind Babaji Patil as tenant.

4. During this period, the petitioners also initiated proceedings under Section 17(B) of the said Act to record their names as tenants for the land in dispute and two other lands. The Tahasildar, by order dated 28 August 2002, dismissed the petitioners' proceedings under Section 32G for fixation of purchase price. On 11 December 2002, the ALT rejected the petitioners' application under Section 70(B). The ALT noted that the legal representatives of Govind Babaji Patil did not appear despite notice. The ALT also held that there was no material to show that the petitioners were tenants of the land. The ALT, therefore, rejected the application under Section 17(B).

5. In 2005, the petitioners filed Tenant Appeal No. 17 of 2005 challenging the order dated 28 August 2002 dismissing their Section 32G application. The Sub-Divisional Officer dismissed the appeal by order dated 14 May 2010. The petitioners then filed a revision before the Maharashtra Revenue Tribunal. The Tribunal dismissed the revision by order dated 27 September 2013. The petitioners have, therefore, filed this petition.

6. Mr. Gole for the petitioners submitted that Govind Babaji Patil was a deemed tenant on the tillers' day. He submitted that the authorities could not remove his tenancy without following Section 15 of the Act. He argued that a simple statement requesting deletion of his name did not end his tenancy rights. He submitted that the order dated 14 November 1963 is void from the beginning because the authority recorded such statements to bypass the procedure and defeat the purpose of land reforms. He relied on the judgment of the Supreme Court in *Amrit Kale vs. Kashinath* (1983) 3 SCC 437 and a judgment *Shri. Nitin Suresh Kadam And Ors Versus Shri. Vitthal Thaku Jadgale And Ors* reported in 2025 (3) Bom CR 247. He submitted that dismissal of proceedings under Section 70(B) on 11 December 2002 cannot defeat the present petition because the applicant had died in those proceedings and legal heirs were not brought on record. He submitted that the said order is a nullity. He submitted that the impugned judgment and order should be quashed.

7. Mr. Dewal for the respondents opposed the petition. He submitted that the statement of Govind Babaji Patil was recorded by the competent authority in proceedings under Section 32G. He submitted that the authority had jurisdiction. He submitted that the order deleting his name was never challenged by him or by anyone else. It has attained finality. He submitted that the petitioners later filed proceedings under Section 70(B) but those proceedings also ended against them. The competent authority rejected their application under Section 17(B) by order dated 11 December 2002. The authority recorded that legal heirs were informed but they did not appear. The authority also held that the petitioners did not produce any material to prove tenancy. He submitted that the order under Section 70(B) was on merits. He relied on the judgment of the Supreme Court in *V.S. Charati vs. Hussein Nhanu Jamadar* (1999) 1 SCC 273. In that case, the Supreme Court held that even if a decision is wrong, it does not become a nullity and it binds the parties unless set aside. He submitted that the petition has no merit and should be dismissed.

8. The rival contentions now require examination.

9. The issue is whether the judgment and order dated 14 November 1963 directing deletion of the tenant's entry was a nullity. The record shows that the proceedings were under Section 32G of the Act. The Agricultural Lands Tribunal had the power to start such proceedings and decide tenancy rights under Section 32G. During those proceedings, Govind Babaji Patil stated that his

entry as tenant by Mutation Entry No. 479 was incorrect. He stated that the owner cultivated the land through labourers. He requested deletion of his name as tenant. The authority accepted his statement and ordered deletion of his name. If any party believed that the authority acted illegally or without following proper procedure, the correct remedy was to file an appeal against that order. A later authority under Section 32G cannot declare that an earlier order passed under Section 32G is a nullity. The proper course for the petitioners was to challenge that order before a higher forum and seek its reversal. The petitioners did not adopt that course.

10. The record also shows that the petitioners later filed proceedings under Section 70(B) regarding the same land. The competent authority dismissed those proceedings on merits. The authority held that the petitioners failed to produce material to show that their predecessor was a tenant of the land. The authority had power to record such finding. The petitioners argued that the order was a nullity because legal representatives were not brought on record. This argument is not supported by the record. The order states that the legal representatives were informed about the tenancy proceedings and did not take steps to come on record. When knowledge of proceedings and service of notice are established, such proceedings cannot be treated as void. The order under Section 70(B) therefore attained finality. It recorded a clear finding that the petitioners were not tenants of the land. Unless that order is set aside in appeal by a superior authority, it

continues to bind the parties. In view of this, the authorities acted correctly in rejecting the petitioners' claim as tenants and in dropping the proceedings under Section 32G.

11. The principle emerging from *Amrit Kale* is that the tenancy of a protected tenant does not come to an end unless there is a valid surrender under Section 15 of the Tenancy Act. The surrender must be voluntary, in writing, verified before the competent authority, and must comply with the statutory safeguards. A mere oral statement or informal act does not extinguish statutory tenancy rights. These principles are traceable to the Supreme Court's reasoning in *Amrit Kale*.

12. When these principles are applied to the present case, the factual distinction becomes material. The tenancy entry in favour of Govind Babaji Patil was deleted in proceedings under Section 32G. Those proceedings were conducted by the competent Agricultural Lands Tribunal. During those proceedings, Govind Babaji Patil expressly stated that his entry as tenant was incorrect. He stated that the land was being cultivated by the owner through labourers. He requested deletion of his name. The authority acted on that statement and passed an order directing deletion of the tenancy entry. That order was appealable under the Act. No challenge was made. The order therefore became final.

13. *Amrit Kale* deals with the consequences of non-compliance with Section 15 procedure in the context of an existing protected tenant who asserts continuance of tenancy. In the present case, the

tenant himself disowned tenancy during quasi-judicial proceedings under Section 32G. After that, neither he nor his legal heirs pursued any remedy to restore or protect the tenancy entry.

14. The core principle of *Amrit Kale* operates when the tenant asserts a statutory status which the landlord seeks to defeat by informal surrender. Here, the tenant did not assert statutory protection; he repudiated the tenancy on record and did so before the authority empowered to adjudicate tenancy rights.

15. The second development further dilutes the applicability of *Amrit Kale*. The petitioners invoked Section 70(B) long after the 1963 order. The competent authority rejected their claim on merits. It held that no material was placed to prove tenancy. It recorded that legal representatives failed to appear despite notice. That order also attained finality.

16. Accordingly, the judgment in *Amrit Kale* does not assist the petitioners on these facts. The tenants' rights, if any, stood concluded in 1963 and again in 2002 by competent adjudication that was never overturned. The ratio of *V.S. Charati* supports this view, since even an allegedly wrong decision binds unless set aside by a competent appellate forum.

17. Hence, in my opinion, there is no jurisdictional error committed by the Authorities under the Act.

18. The Petition is, therefore, dismissed.

(AMIT BORKAR, J.)