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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13209 OF 2018

Arjun Umaji Balkawade ... **Petitioner**

Vs.

Raghunath Narayan Jagtap & Others ... **Respondents**

Mr. Yuvraj Narvankar with Ms. Raufa Shaikh and Mr. Kshitij Munj for the petitioner.

Mr. Prathamesh Bhargude with Mr. Sumit Sonare for respondent No.4.

CORAM	**: AMIT BORKAR, J.**
RESERVED ON	**: AUGUST 10, 2026.**
PRONOUNCED ON	**: AUGUST 12, 2026**

JUDGMENT:

1. The petitioner is challenging the Order dated 3 September 2018 passed by the Maharashtra Revenue Tribunal in Revision Application No. TNC/REV/355/2008/P. By the said Order, the Tribunal reversed the earlier Order dated 21 July 2008 passed by the Sub-Divisional Officer, Maval Sub-Division, Pune in Tenancy Appeal No. 01/2002. The Tribunal thereby interfered with the Order dated 11 January 2001 passed by the Tahsildar in Tenancy Case No. 03/2000.

2. The petitioners are the tenants of land bearing Gat No. 566, admeasuring 48.6 R, which is the suit property. The predecessor of the petitioners, namely Mr. Shripati Balkawade, was cultivating the suit property since the year 1930. He died in the year 1942. After his death, the tenancy continued and the land was cultivated by Mr. Umaji Shripati Balkawade. He died on 2 October 1996, leaving behind the petitioner and respondent Nos. 8 to 15 as his legal heirs. The present petitioner has continued to cultivate the suit land peacefully and without interruption till date. Since Mr. Umaji Shripati Balkawade was a tenant on the relevant date, namely 1 April 1957, he was treated as a protected tenant. Accordingly, Mutation Entry No. 2168 was made recording him as a protected tenant. This Mutation Entry was never challenged and has therefore attained finality.

3. After the death of Mr. Umaji Shripati Balkawade, the names of the present petitioner and respondent Nos. 8 to 15 were entered in the revenue record by Mutation Entry No. 553, which was sanctioned on 9 September 1997. This Mutation Entry was never challenged by any of the respondents. It has therefore attained finality and is binding upon them.

4. According to the respondents, an application under Section 32-P of the Maharashtra Tenancy and Agricultural Lands Act was allowed on 31 December 1962. However, Mr. Umaji Balkawade had not received any notice of those proceedings. On the contrary, by his application dated 26 December 1962, he had expressed his willingness to purchase the said land. The respondents did not produce the alleged proceedings under Section 32-P before the authorities at the relevant time and did not take any steps in pursuance of the alleged order. These circumstances raise serious doubt regarding the existence, authenticity and genuineness of the said proceedings.

5. The petitioner came to know about the alleged decision dated 31 December 1962 under Section 32-P only when some incomplete and unsupported record relating to the said proceedings were produced during the hearing before the Sub-Divisional Officer. The consolidation scheme was implemented in the village in the year 1981-82. Even in the said consolidation scheme, the name of Mr. Umaji Shripati Balkawade was shown as a protected tenant. No person raised any objection or complaint against the said entry at that time. The said record, therefore, continued without any challenge.

6. After the proceedings under Section 32-P were brought to his notice, the petitioner applied for issuance of a Certificate of Purchase under Section 32-M. Notices were issued to the respondents in those proceedings. Despite receiving the notices, the respondents remained absent. The Talathi thereafter conducted a panchnama. The Tahsildar determined the purchase price of the suit property at Rs. 2,781/-. The petitioner deposited the said amount in the Government Treasury. Thereafter, his name was entered in the revenue record as owner by Mutation Entry No. 827. On these facts, the Tahsildar passed the Order dated 11 January 2001 under Section 32-G of the Maharashtra Tenancy and Agricultural Lands Act.

7. The respondents, being aggrieved by the Order of the Tahsildar, challenged the same before the Sub-Divisional Officer by filing Tenancy Appeal No. 1/2002. The Sub-Divisional Officer considered the material on record and heard the parties. After examining the matter, the Sub-Divisional Officer dismissed the appeal and confirmed the case of the petitioner.

8. The respondents thereafter challenged the Order of the Sub-Divisional Officer by filing Revision Application No. 355/2008 before the Maharashtra Revenue Tribunal, Pune Bench, Pune. According to the petitioner, the Tribunal did not consider the material available on record and proceeded on considerations which were not relevant to the real dispute. The Tribunal consequently allowed the Revision Application by the impugned Order dated 3 September 2018 and reversed the Orders passed in favour of the petitioner.

9. The impugned Order dated 3 September 2018 passed by the Maharashtra Revenue Tribunal in Revision Application No. TNC/REV/355/2008/P was challenged by the petitioner by filing the present Writ Petition on 19 September 2018. The Petition was mentioned and was thereafter listed on 25 October 2018 and 26 November 2018. The matter was heard at length on 27 November 2018. On that date, this Court called for the original record and proceedings. The Advocate appearing for the respondent, on instructions, made a statement that the respondent would not take any steps in furtherance of the impugned Order. The said statement was continued on 9 January 2019. Thereafter, although the matter was listed on 23 January 2019 and 20 February 2019, it did not reach for hearing. The order of ad-interim protection, if any, was continued on those dates.

10. When the matter was again listed on 25 February 2019, the earlier statement was not continued on the record. However, an assurance was given that no further steps would be taken in pursuance of the impugned Order. The matter was thereafter listed on 8 April 2019, but it did not reach. Taking advantage of this situation, the respondent acted upon the impugned Order. A mutation entry was made in the revenue record in pursuance of the impugned Order. This was done without giving any notice or intimation to the petitioner. The petitioner came to know about the said change in the revenue record only on 9 April 2019.

11. Mr. Narvankar, learned Advocate appearing for the petitioner, submitted that the Tribunal failed to consider that the name of the petitioner's predecessor in title was continuously recorded as tenant in the revenue records from the year 1953-54 till the year 1973-74. During the same period, the cultivation of the land was shown in the name of Umaji Balkawade. These entries in the revenue record are inconsistent with the respondents' claim that proceedings under Section 32-P had taken place.

12. Learned Advocate further submitted that the alleged proceedings under Section 32-P were never brought to the notice of the petitioner's predecessor in title. On the contrary, the application made by Umaji Balkawade on 26 December 1962 shows that he was ready and willing to exercise his right to purchase the land. According to the petitioner, when the tenant had expressed his willingness to purchase the land, there was no reason for initiating or completing proceedings under Section 32-P.

13. Learned Advocate submitted that the Tribunal committed an error in relying upon the illegible zerox copies produced by the respondents. The Sub-Divisional Officer had declined to rely upon those documents as they were not authenticated. In such circumstances, the proper course would have been to call for the original record and proceedings and then examine the alleged proceedings under Section 32-P. However, while deciding the Revision Application, the Maharashtra Revenue Tribunal relied upon the same set of record without calling for the original record and proceedings.

14. Learned Advocate submitted that the Tribunal erred in relying upon Revenue Entry No. 2496 for coming to the conclusion that proceedings under Section 32-P had taken place. Firstly, the said revenue entry was not supported by any original or other reliable documentary evidence and was not brought to the notice of the petitioner. Secondly, the said entry was completely inconsistent with the continued recording of the petitioner's name in the revenue record and with his continued possession and cultivation of the suit land. Thirdly, a revenue entry is only a piece of presumptive evidence. It cannot take the place of a proper order passed in valid proceedings under the Tenancy Act.

15. Learned Advocate further submitted that the issuance of the Certificate under Section 32-M completed and confirmed the petitioner's title as purchaser of the suit land. According to him, such title would relate back to the deemed date under the provisions of the Tenancy Act.

16. Learned Advocate submitted that the conduct of the respondents is important. Their silence and failure to take any steps for a long period support the case of the petitioner. According to him, the absence of any action on the part of the respondents strengthens the petitioner's contention that the alleged proceedings under Section 32-P were never validly acted upon.

17. Learned Advocate submitted that the Respondent acted with deliberate intention in getting the mutation entry made in pursuance of the impugned Order, even though the impugned Order was under challenge before this Court and the matter was pending consideration. According to him, the mutation was made with the object of defeating the petitioner's long-standing rights in the suit property. He therefore submitted that the said mutation is illegal and liable to be set aside.

18. The petitioner had been declared to be the deemed purchaser and was continuously cultivating the suit land peacefully. The petitioner had submitted applications to the Revenue Authorities informing them about the pendency and progress of the proceedings before this Court and requesting them not to take any steps in pursuance of the impugned Order. Despite this, and despite the fact that the proceedings were pending before this Court, Mutation Entry No. 2645 was made in the revenue record. Learned Advocate therefore submitted that the said mutation entry is liable to be set aside because it was made only in pursuance of the impugned Order, which is under challenge.

19. Mutation Entry No. 2645 was apparently recorded in the mutation register on 30/03/2019. However, no notice of the said mutation was given to the petitioner or, according to the submission, to any person concerned, though such notice is required under the provisions of the Maharashtra Land Revenue Code, 1966. It was further submitted that Mr. Haribhau Narayan Jagtap, whose name has been recorded in the said mutation entry as the Manager of the HUF, had died in the year 1988. Therefore, according to the petitioner, recording the name of a person who had died in 1988 as HUF Manager in Mutation Entry No. 2645 makes the said entry legally unsustainable and a nullity.

20. Learned Advocate lastly submitted that the petitioner has not been supplied with a copy of the diary or original record relating to Mutation Entry No. 2645. The petitioner therefore reserves his right to challenge the said mutation entry further after receiving the original record and relevant documents.

21. Mr. Narvankar, learned Advocate for the petitioner, relied upon the judgment of the Supreme Court in *N. Jayaram Reddy v. Revenue Divisional Officer,* reported in (1979) 3 SCC 578. Relying on the said judgment, he submitted that where a party, despite having an opportunity, deliberately does not raise a plea of nullity at the relevant stage, such party cannot later be permitted to raise the same plea whenever it suits him, particularly when allowing such a plea would cause prejudice to the other party.

22. He further relied upon the judgment of this Court in *Jaywant Narayan Maind v. Dattatraya Jagannath Lale,* reported in 1989

SCC OnLine Bom 15. According to learned Advocate, the said judgment makes it clear that an order passed under Section 32-P of the Bombay Tenancy and Agricultural Lands Act cannot have any effective consequence against the concerned tenant unless the said order is duly communicated to him. On this basis, he submitted that the alleged order under Section 32-P, which was never communicated to the petitioner's predecessor, could not have been relied upon for defeating the petitioner's rights in the suit land.

23. Mr. Bhargude, learned Advocate appearing for the respondents, submitted that the Order passed by the Tahsildar is a nullity because it was passed against a person who was dead. He submitted that the Order was passed without giving an opportunity of hearing to respondent Nos. 1 to 7 or to their predecessor in title. According to him, the proceedings were therefore ex parte and could not have resulted in a valid order.

24. He submitted that Haribhau Narayan Jagtap had died. Despite knowing about his death, the petitioner initiated the proceedings in his name and did not issue notice to the respondents, who were his legal heirs. According to learned Advocate, the proceedings were continued without bringing the legal heirs of Haribhau Narayan Jagtap on record.

25. Learned Advocate further submitted that the proceedings were conducted in collusion with the Talathi. The legal heirs of Haribhau Narayan Jagtap, namely Respondent Nos. 1 to 7, were not brought on record. No proper order was passed bringing them into the proceedings, despite the Tahsildar and the Talathi having knowledge of the death of Haribhau Narayan Jagtap and the existence of his legal heirs. In these circumstances, according to learned Advocate, the Order passed by the Tahsildar is a nullity in the eyes of law.

26. Learned Advocate then submitted that the Order passed under Section 32-P and the statement recorded in those proceedings were never challenged. The said Order therefore continued to operate and, according to him, had the effect of res judicata. Therefore, without first challenging the Order passed under Section 32-P, the petitioner could not have initiated fresh proceedings under Section 32-G. He submitted that the statement made by the father of the petitioner before the Additional Tahsildar supports this position. According to him, the earlier proceedings and the statement were brought to the notice of the Additional Tahsildar. Therefore, unless the earlier Order under Section 32-P was challenged, the subsequent proceedings under Section 32-G could not have been initiated. The proceedings under Section 32-G were consequently barred by the principle of res judicata.

27. Learned Advocate relied upon Mutation Entry No. 2496, which, according to him, shows that effect was given to the Order passed under Section 32-P in the revenue record. He submitted that although the name of the petitioner's father continued to appear in the 7/12 extract for some time, the subsequent revenue entries show that the Order under Section 32-P was acted upon.

28. He submitted that after Narayan Tukaram Jagtap died on 9 January 1975, the name of Haribhau Narayan Jagtap was entered in the 7/12 extract. According to him, the earlier Mutation Entry was thereafter given effect to. He referred to pages 45 and 46 of the record and submitted that from the year 1977 the names of the predecessors of respondent Nos. 1 to 7 were entered in the 7/12 extracts. According to him, these entries show that the respondents' predecessor was treated as having the rights in the suit land in pursuance of the earlier proceedings.

29. Learned Advocate then relied upon the conduct of the petitioner and his predecessor after the year 1962. He submitted that neither Umaji Balkawade nor the present petitioner made any claim of tenancy from 1962 till the death of Umaji Balkawade in the year 1996. According to him, if Umaji Balkawade was really claiming tenancy rights in the suit land, there was no reason for him to remain silent for such a long period. The claim was made only after about four years from the death of Umaji Balkawade, when proceedings under Section 32-G were initiated on 13 July 2000. According to learned Advocate, the petitioner therefore sought to assert a tenancy claim for the first time against a person who was dead.

30. Learned Advocate referred to pages 54 and 55 of the record and relied upon Mutation Entry No. 827 dated 16 May 2001. According to him, the said entry shows that on 18 May 2001, for the first time, the names of the predecessors of respondent Nos. 1 to 7 were removed from the 7/12 extract. This was done on the basis of the Order obtained by the petitioner from the Agricultural

Lands Tribunal under Section 32-G. He therefore submitted that the revenue record shows that the petitioner's claim resulted in removal of the respondents' predecessors' names only in the year 2001.

31. Learned Advocate lastly submitted that the petitioner had not disclosed the relationship between the parties and had not placed the relevant facts concerning the family relationship before the authorities. According to him, this non-disclosure was material because the identity of the parties and their relationship with the deceased person were relevant for deciding who was entitled to notice and an opportunity of hearing in the tenancy proceedings.

REASONS AND ANALYSIS:

32. The submissions made by both sides, the material which was before the Tahsildar, the order passed in the Section 32-G proceedings and the findings given by the Maharashtra Revenue Tribunal are considered together. The first question which arises is whether the proceeding of 1962 had decided the right of purchase. The next question is whether the later proceeding before the Tahsildar could at all be taken up in law.

33. The land in dispute is old Survey No. 262, now Gat No. 566, having area of about 1 Acre 8 Gunthas. The Section 32-G order records that Arjun Umaji Balkawade filed an application on 13 July 2000 claiming tenancy through his father Umaji Balkawade and asking for determination of the purchase price. It is recorded that the applicants relied upon the earlier revenue entries showing tenancy and cultivation. The relationship of Umaji Balkawade with his heirs is mentioned. It is shown that after the death of Umaji, his sons and other heirs claimed through him.

34. The case of the petitioners is that Umaji Balkawade was a tenant and was cultivating the suit land for many years. His name is found in the revenue record in relation to the cultivation. Even the Section 32-G order records that the Village Form 7/12 and other revenue record showed the name of Umaji Balkawade in relation to cultivation of the land. Therefore, it cannot be said that the tenancy claim was made for the first time in the year 2000 without there being any earlier material in support of the same.

35. This submission of the petitioners has some force, but it does not decide the entire dispute. The revenue entries showing tenancy and cultivation are relevant and have to be considered. However, such entries cannot take away the effect of an earlier order, if that order is shown to have been passed and thereafter acted upon. Therefore, what had happened in the year 1962 becomes an important question for consideration.

36. The respondents rely upon the order dated 31 December 1962 and Mutation Entry No. 2496 dated 18 January 1963. According to them, in the proceedings of 1962, Umaji Balkawade had stated that he did not want to purchase the land. The landowner Narayan Jagtap had stated that he wanted to cultivate the land. On this basis, the purchase under Section 32-G was treated as ineffective and the land was given back to the landowner. The Maharashtra Revenue Tribunal considered this part of the earlier proceeding. It noticed that the order dated 31

December 1962 referred to the statements of Umaji Balkawade and Narayan Jagtap recorded on 26 December 1962.

37. This finding of the Tribunal cannot be rejected only on the ground that the petitioner contends that the xerox copy of the 1962 order is not clear. The Tribunal did not consider the 1962 order alone. It considered what happened after that order. Mutation Entry No. 2496 was made on 18 January 1963. The Tribunal found that thereafter the Village Form 7/12 showed cultivation by Narayan Tukaram Jagtap from 1966-67 onwards.

38. This later revenue record is important. If the 1962 order was only a paper and was never acted upon, the later entries would create some doubt. But the material considered by the Tribunal shows a sequence of events. First, there was the order dated 31 December 1962. Then Mutation Entry No. 2496 was made on 18 January 1963. Thereafter, from 1966-67, the landowner was shown as cultivating the land in the 7/12 extract. These circumstances support the finding that the 1962 order was acted upon.

39. The petitioner contends that this finding is not correct because the revenue record from 1953-54 to 1973-74 continued to show the name of Umaji Balkawade as tenant and cultivator. There may be some entries in the revenue record which appear to be different from each other. Such difference in the entries has to be understood. But merely because some entries appear to be inconsistent, it cannot be said that the 1962 order did not exist. The Tribunal has found a particular change in the later cultivation record. The 7/12 extract relied upon by the Tribunal showed cultivation by the landowner from 1966-67.

40. The petitioner's reliance on the consolidation scheme of 1981-82 requires consideration. If Umaji was shown as a protected tenant even in that record, it is a circumstance supporting the petitioner's case. But this entry cannot cancel an earlier order. It would be necessary to see whether the consolidation authority had considered the earlier Section 32-P or Section 32-G proceedings and thereafter taken any decision against that earlier order. There is no material before the Court to show that the consolidation authority decided the validity of the 1962 order. Therefore, the consolidation entry creates a question regarding the revenue record, but it does not prove that the 1962 order was never passed or was never acted upon.

41. The application dated 26 December 1962 relied upon by the petitioners requires consideration. The petitioners contend that Umaji had shown his willingness to purchase the land and therefore the finding that he did not want to purchase the land is incorrect. If the original application shows such willingness, there would be a conflict between that document and the statement relied upon in the 1962 order. But the Tribunal has recorded that the order of 1962 referred to the statement of Umaji Balkawade and found that he did not wish to purchase the land. Unless the original proceedings of 1962 are displaced by reliable material, the finding recorded in that order cannot be rejected only on the basis of a later statement about what was stated in another document.

42. There is the question whether the 1962 order was ever challenged. The Tribunal found that neither the order dated 31 December 1962 nor Mutation Entry No. 2496 was challenged by Umaji Balkawade at any time. The Tribunal therefore held that the order had attained finality. This is an important circumstance. The person whose tenancy right was affected was Umaji Balkawade. If the order was known to him and was acted upon in the revenue record, his failure to challenge it for such a long period cannot be treated as having no meaning.

43. The decision in *Jaiwant Narayan Maind,* has to be understood from the facts of that case. The judgment does recognise that when an order is passed behind the back of the concerned party, some intimation may become necessary because the law provides a right of appeal. The Court observed:

> "Perhaps, where the order is passed behind the back of the parties as in the present case, an intimation may be necessary to be sent to the parties because an appeal is provided from the order u/s. 32G but the mere tact that the intimation has not been sent will not Invalidate the order which has been passed."

44. This observation does not mean that every order which is not communicated becomes void. In the present case, there is material showing that after the 1962 order, Mutation Entry No. 2496 was made and later revenue entries showed cultivation by the landowner. Therefore, the Tribunal had material before it to conclude that the 1962 order had been acted upon.

45. The next question is regarding the validity of the Section 32-G proceeding of the year 2000. On this question, the submission of the respondents has force. The application dated 13 July 2000 was made by Arjun Balkawade. The Section 32-G order shows that Umaji Balkawade was dead and that several of his heirs were shown as applicants. On the side of the landowners, however, only Narayan Tukaram Jagtap and Haribhau Narayan Jagtap were shown as respondents.

46. The Maharashtra Revenue Tribunal found that Haribhau Narayan Jagtap had died in 1988. It found that the report regarding the notice sent to Haribhau showed that he was dead and that the Talathi had recorded this fact in the Panchanama. The Tribunal further found that the other heirs of the original landowner, namely Draupadibai, Raghunath, Baban, Ashok and Vitthal, were not made parties and were not given notice.

47. This finding goes to the basic foundation of the Section 32-G proceeding. A proceeding in which the tenant is seeking to purchase the land affects the rights of the landowner. The persons whose rights are going to be affected must get an opportunity to put forward their case. A dead person cannot receive notice and cannot defend the case. Therefore, if Haribhau had died and his legal heirs were not brought on record, the proceeding could not continue against him as if he was alive.

48. The Supreme Court's observation in N. Jayaram Reddy explains the reason for this rule. It states:

> "The basic fact remains that a decree against a dead person is treated as a nullity because it cannot be allowed to operate against his legal representative when he was never brought on the record to defend the case."

49. The principle is that a legal representative cannot be made bound by an order when the person representing the estate was never given an opportunity to defend it. This becomes more important where the order decides substantive tenancy rights.

50. The decision in *Gurnam Singh v. Gurbachan Kaur,* (2017) 13 SCC 414, holds the settled principle that an order passed for or against a dead person may be a nullity. The Supreme Court relied upon *Kiran Singh v. Chaman Paswan AIR 1954 SC 340* and observed:

> "a decree passed by a court without jurisdiction is a nullity"

51. The Supreme Court held that such invalidity can be raised whenever and wherever the decree is sought to be enforced. This principle is relevant here because the respondents' case is that the proceeding was conducted against a person who had died and without bringing the persons who were entitled to represent his interest on record.

52. The petitioner submits that respondent Nos. 1 to 7 subsequently challenged the Tahsildar's order before the Sub-Divisional Officer and therefore the defect should be treated as cured. I am unable to accept this submission. A later appeal cannot create jurisdiction which was absent at the beginning. If the original proceeding was conducted against a dead person and the persons whose rights were affected were not before the authority, their later participation in appeal cannot make the original proceeding valid.

53. There is another difficulty in the petitioner's case. The Section 32-G order contends that the landowners were served and the matter was taken up for hearing. But the Tribunal examined the actual record and found that the only landowner party was Haribhau, who was dead, while the other heirs were not joined and were not served. Therefore, the general statement in the Tahsildar's order regarding service cannot overcome the material found in the notice report and Panchanama showing that Haribhau was dead.

54. The petitioner submits that the Tahsildar fixed the purchase price and therefore the proceeding was completed. It is true that the Section 32-G order contains calculation of the purchase price and records that the applicants were entitled to the benefit of the Section 32-G proceedings. But fixing the price is only one part of the proceeding. It cannot make a defective proceeding valid when the necessary persons were not before the authority.

55. The petitioner's reliance upon Mutation Entry No. 553 and his continued possession does not change this conclusion. Continuous possession and revenue entries can support a tenancy claim. But they cannot bring back a purchase right which had been dealt with by the order dated 31 December 1962, if that order is otherwise proved and binding. Similarly, possession cannot remove the requirement of hearing the landowners in the proceeding of 2000.

56. The Tribunal's conclusion that the 1962 proceedings had attained finality is therefore supported by more than the disputed xerox copy. There is the order dated 31 December 1962, the statement of Umaji recorded on 26 December 1962 as referred to in that order, Mutation Entry No. 2496 dated 18 January 1963 and the later 7/12 record showing cultivation by the landowner from 1966-67. These circumstances together form one chain of events. The petitioners have not placed material sufficient to break that chain.

57. The fact that the 1962 order was never challenged is important. The Tribunal found that neither Umaji Balkawade nor his successors challenged the order or Mutation Entry No. 2496. The petitioner's present claim was started only in the year 2000, many years after the 1962 order. Therefore, reopening the same purchase question after such a long period cannot be allowed unless the petitioner proves that the earlier order was void or had no legal effect. On the material available, that has not been proved.

58. I, therefore, do not accept the submission of the petitioner that the 1962 order should be rejected only because the copy produced before the Sub-Divisional Officer was not fully clear. The Tribunal noticed that the later Mutation Entry No. 2496 and the subsequent cultivation entries gave separate support to the existence and implementation of the 1962 order. If the Sub-Divisional Officer had doubt about the 1962 order, he was required to explain how Mutation Entry No. 2496 came to be made and why thereafter the 7/12 record showed the landowner's cultivation. The Tribunal found that this was not done.

59. The principle of res judicata therefore has some application. Once the 1962 proceeding is accepted as a valid decision concerning purchase of the same land on the same tenancy claim, the same issue could not be reopened in 2000 by filing another application under Section 32-G. The authority could not again decide the same issue as if there had been no earlier decision.

60. The conduct of the petitioner's predecessor is relevant. There is no material showing that Umaji Balkawade challenged the 1962 order during his lifetime. The Tribunal found that the order and Mutation Entry No. 2496 remained unchallenged. The long period between 1962 and 2000 therefore cannot be completely ignored.

61. The result is that the petitioner's challenge to the 1962 order cannot succeed. The material before the Court is sufficient to hold that the order dated 31 December 1962 was acted upon and had attained finality. The later Section 32-G proceeding could not be used to reopen that issue.

62. The position regarding the Section 32-G proceeding of 2000 is clear. The Tahsildar proceeded against Haribhau Narayan Jagtap although the record showed that he had died in 1988. The other heirs of Narayan Jagtap were not brought on record and were not given notice. The Tribunal therefore rightly noticed that the Tahsildar's order was passed without giving the necessary persons an opportunity to place their case before the authority.

63. The Tribunal has stated:

> "Therefore, the order dated 11 January 2001 passed by the Tahsildar allowing the application of respondent No. 3 was passed against a deceased person and without giving the necessary parties an opportunity to put forward their case."

64. This finding that the order was void ab initio cannot be said to have been made without any basis. It follows from the material regarding the death of Haribhau and the fact that the other heirs were not made parties. The petitioner's later reliance upon that order cannot remove this basic defect.

65. The reliance of the petitioner upon *N. Jayaram Reddy* does not change the result. That judgment holds that a legal representative may choose to give up the objection of failure to bring legal representatives on record in the appeal filed by other side. Here, the respondents have not given up that objection. They raised it and continued to challenge the order before the higher authorities. Therefore, the principle relied upon by Mr. Narvankar does not prevent the respondents from questioning the validity of the 2000 proceeding.

66. The decision in *Jaiwant Narayan Maind* does not help the petitioner. That decision does not remove the need of giving a fair opportunity where the order is passed behind the back of the concerned person. Here, the difficulty is still more basic. The person shown as a party had died. The other persons who were required to be heard were not made parties.

67. The submission that the respondents had knowledge of the Section 32-G proceeding because they later challenged the order cannot change the result. The right of hearing must be available when the original authority decides the matter. A person cannot be deprived of his first opportunity before the authority and then be told that he can correct the defect in appeal.

68. After considering the entire material, I find that the Maharashtra Revenue Tribunal was right in allowing Revision Application No. TNC/REV/355/2008/P. Accordingly, the challenge to the impugned Order dated 03/09/2018 fails.

69. The Writ Petition is therefore liable to be dismissed.

70. The Writ Petition is dismissed. Rule is discharged.

71. In the facts and circumstances of the case, there shall be no order as to costs.

72. At this stage, Mr. Narvankar, learned Advocate for the petitioner seeks continuation of interim relief. Considering the fact that during the pendency of the writ petition, interim relief was in force, same will be continued for a period of six weeks from today.

(AMIT BORKAR, J.)