CASE NO.:
Appeal (civil) 568 of 1981
Appeal (civil) 6960 of 2001

PETITIONER:
BALCHANDRA ANANTRAO RAKVI & ORS.

Vs.

RESPONDENT:
RAMCHANDRA TUKARAM (DEAD) BY LRS. & ANR.

DATE OF JUDGMENT: 03/10/2001

BENCH:
Syed Shah Mohammed Quadri & S.N. Phukan

JUDGMENT:

SYED SHAH MOHAMMED QUADRI, J.

Leave is granted in SLP(C) No.4897 of 1980.
These appeals, by special leave, arise from the common judgment of the High Court of Judicature at Bombay in Special Civil Application Nos.1897 of 1973 and 1901 of 1973 dated March 15, 1979. In the appeals the appellants-landlords are common but the first respondent-tenant is different. To appreciate the question involved in these cases, it will suffice to refer to the facts in Civil Appeal No.568 of 1981.

The dispute arises under the Bombay Tenancy & Agricultural Lands Act, 1948 (for short, the Act) and relates to agricultural lands bearing Survey Nos.661/3, 675/1, 692/1, 693/2, 695/5, 691/1 and 702/2 of village Bhayandar District Thana, Maharashtra State, out of which an extent of Acres 2 = 31 guntas (hereinafter referred to as, the lands in dispute), is the subject-matter of Civil Appeal No.568 of 1981. They are inam lands. The appellants were initially the tenants of the lands in dispute under the Inamdar. The case of the appellants is that the first respondent, being their close relative, was permitted to cultivate the lands in dispute. He, however, claimed to be the tenant of the lands in dispute. He died during the pendency of the case before the High Court and his heirs and legal representatives, respondent Nos.1A to 1J, were brought on record (hereinafter referred to as, the first respondent). The second respondent, namely, M/s. Estate Investment Company (hereinafter referred to as, the Investment Company) is said to be the purchaser of the lands in dispute from the Inamdar.

The Act came into force in December 1948. The State Government assumed the management of the lands in dispute and announced this fact in R.D.Notification No.4603/45-III (B) dated December 19, 1949. However, by Notification No.MGT/2356/20023/M dated October 1, 1957, issued under Section 61 of the Act, the management of the Government was terminated. It is a common ground that the lands in dispute were in possession of the first respondent even when they were under the management of the Government.

It appears, in 1968, the first respondent filed an application under Section 32-G of the Act before the Additional Tehsildar for fixation of the purchase price of the lands in dispute. The appellants contested that application on the ground that it was barred by limitation. It was alleged that being closely related to them, the first respondent was permitted to cultivate the said lands and that he was not the tenant of the lands in dispute. The Investment Company claimed ownership of the said lands and admitted the tenancy of the first respondent. The Additional Tehsildar on consideration the material placed before him found that the first respondent was not the tenant of the lands in dispute and that he had not exercised his option to purchase them within the time permitted by clause (b) of the proviso to clause (d) of sub-section (1) of Section 88 of the Act therefore he had lost the right to purchase them. On April 15, 1970, on those findings, he dismissed the application; however he also ordered that the name of the Investment Company be removed from the village records. Against that order of the Additional Tehsildar the first respondent and the Investment Company filed T.A.No.51/70, 52/70, 68/70 and 69/70 before the Sub-Divisional Officer, Thana Division, (appellate authority under the Act). On September 25, 1971, while allowing the appeals, the appellate authority held the first respondent to be the tenant of the lands in dispute and ordered that the name of the second respondent be restored in the column of other rights in the revenue record. However, it declined to consider the effect of the first respondent not exercising the right to purchase the lands in dispute within one year under the afore-mentioned provision treating that aspect as irrelevant. The order of the appellate authority was assailed by the appellants in two revisions (T.A.Nos.107 & 108 of 1972) before the Maharashtra Revenue Tribunal. The Tribunal took the view that after the termination of the management of the lands in dispute by the Government the first respondent being a tenant became the deemed purchaser as such the question of exercise of option to purchase the lands in dispute by him did not arise. In that view the Tribunal dismissed the revisions by a common order passed on December 6, 1972, which was assailed by the appellants in the afore-mentioned special civil applications in the High Court. Holding that all the foregoing provisions (Sections 2 to 87-A) of the Act applied to the lands in dispute on release from the management of the Government; that the first respondent was the tenant and it was not necessary for him to give an intimation with regard to the exercise of the right to purchase the lands in dispute under clause (b) of the first proviso to clause (d) of Section 88(1) of the Act, either to the landlord or to the Tribunal, within the period specified therein, the High Court dismissed both the applications by a common order of March 17, 1979. That order is brought under challenge by the appellants in these appeals.

Mr. Anil B.Diwan, the learned senior counsel appearing for the appellants, contended that mere declaration that the first respondent was the tenant would not make him a deemed purchaser of the lands in dispute and that the High Court had gone beyond the scope of the lis in the application in creating the rights of a deemed purchaser in the first respondent. Section 88(1)(d) of the Act, submitted Mr.Diwan, was not properly construed by the High Court and therefore the order, under challenge, was liable to be set aside. Mr.V.N.Ganpule, the learned senior counsel appearing for the appellant in the connected appeal while adopting the arguments of Mr. Diwan, argued that the first respondent, not having intimated his option

to purchase the lands in dispute within the specified time of one year under the first proviso to clause (d) of sub-section (1) of Section 88 of the Act, had lost the right to purchase the lands.

Mr.Shanti Bhushan, the learned senior counsel appearing for the Investment Company, disputed the entitlement of the first respondent to purchase the lands in dispute without exercising option to purchase the land within the specified period. He fairly conceded that the rights of the appellants and the Investment company could not be decided in these appeals. He submitted that he was arguing the case on the footing that the management of the Government stood terminated on the date of notification under Section 61 of the Act issued on October 1, 1957 and prayed that no observation on merit in regard to the entitlement of the company which would prejudice the rights of the Investment Company, might be made by this Court.

Mr.V.A.Mohta, the learned senior counsel appearing for the first respondent, canvassed the claim of the first respondent in both the appeals. He contended that the first respondent who had been in possession of the lands in dispute from 1930-1940 became the deemed purchaser from the date when the management of the Government of the lands in dispute came to an end on October 1, 1957. He argued that clause (b) of proviso to Section 88(1)(d) of the Act did not provide as to how the tenant should exercise option to purchase the land while other provisions like Sections 35-F, 32-O specifically contained a provision for exercising the right to purchase the land by the tenant. He emphasised that Section 32 of the Act did not speak of the tenant giving any intimation of purchasing the lands in dispute to the landlord and the Tribunal and there was no mention of Section 88(1) in Section 32-P of the Act. According to the learned counsel the intention of the legislature is to make the tenant a deemed purchaser under Section 32 of the Act from the Tillers Day or some other date as specified therein. He pleaded that the view taken by the High Court was being consistently followed by a catena of decisions and if this court were to take a different view of the matter, it would unsettle the legal position in the State of Maharashtra.

Mr.D.M.Nargolkar, the learned senior counsel appearing for the respondent in the connected appeal, while supporting the stand taken by Mr. Mohta, submitted that Section 88 of the Act was not referred to in Section 32-P and that after the Act came into force the tenant could not remain a mere tenant of the land for all times to come; he must either become a purchaser under the scheme of the Act or would cease to be a tenant of the land.

At the outset we make it clear that the parties have proceeded on the assumption that the management of the land in dispute by the Government stood terminated on October 1, 1957 -- the date of notification under Section 61 of the Act. On the above contentions of the learned counsel, the interesting and important question that arises for our consideration is :

Whether by not indicating his intention to avail the right to purchase the lands in dispute under section 32, conferred on the first under clause (b) of the proviso to clause (d) of sub-section (1) of Section 88 of the Act, within the specified period, will he lose the right?

Since the resolution of the question under consideration

depends upon the true interpretation of the last mentioned provision, it will be necessary to quote Section 88 here :

88. Exemption to Government lands and certain other lands.

(1) Save as otherwise provided in sub-section (2), nothing in the foregoing provisions of this Act shall apply, --

(a) to (c) *** *** ***

(d) to an estate or land taken under management by the State Government under Chapter IV or section 65 except as provided in the said Chapter IV or section 65, as the case may be, and in section 66, 80A, 82, 83, 84, 85, 86 and 87 :

Provided that from the date on which the land is released from management, all the foregoing provisions of this Act shall apply thereto; but subject to the modification that in the case of a tenancy, not being a permanent tenancy, which on that date subsists in the land -

(a) the landlord shall be entitled to terminate the tenancy under section 31 (or under section 33B in the case of a certificated landlord) within one year from such date; and

(b) within one year from the expiry of the period during which the landlord or certificated landlord is entitled to terminate the tenancy as aforesaid, the tenant shall have right to purchase the land under section 32 (or under section 33C in the case of an excluded tenant) ; and

(c) the provisions of sections 31 to 31D, both inclusive (or sections 33A and 33B in the case of a certificated landlord) and sections 32 to 32R, (both inclusive) (or sections 33A and 33C in the case of an excluded tenant) shall, so far as may be applicable, apply to the termination of a tenancy or the right to purchase the land, as aforesaid :

Provided further that,

(a) in the case of a permanent tenancy the permanent tenant shall be entitled to purchase the land held by him on permanent tenancy, --

(i) within one year from the date on which the estate or land is released from management, or

(ii) where such estate or land was released from management after tillers day but before the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1960, within one year from such commencement

and

(b) where such permanent tenant is desirous of exercising the right conferred on him under this proviso, he shall accordingly inform the landlord and Tribunal in the prescribed manner within the said period of one year and the provisions of sections 32 to 32R shall, so far as may be applicable, apply to the right of the permanent tenant to purchase the land.

(2) If any land held on lease from Government or any part thereof --

(i) and (ii) *** *** ***

A plain reading of sub-section (1) of Section 88 discloses that except in cases covered by sub-section (2), which is not relevant here, the provisions of Sections 2 to 87-A shall have no application to cases falling under clauses (a) to (d) thereof. Here, we are concerned with clause (d) which contains an exclusionary clause pertaining to any estate or land taken under management by the State Government under Chapter IV or Section 65 except as provided in the said Chapter IV or Section 65, as the case may be, and in Sections 66, 80-A, 82, 83, 84, 85, 86 and 87. The proviso to clause (d) says that from the date on which the land is released from the management, all the foregoing provisions (Sections 2 to 87-A) shall apply to such land but subject to the modification which applies if a tenancy, not being a permanent tenancy, on that date, subsists in the land. The modification embodies two options - one incorporated in clause (a) of the proviso in favour of the landlord and the other in favour of the tenant embodied in clause (b) of the proviso. The landlord is given an opportunity to terminate the tenancy of the tenant under Section 31 (or under Section 33-B in the case of certificated landlord) within one year from the date of termination of the management of the land by the Government. The opportunity given to the tenant is that he shall have the right to purchase the land under Section 32 (or under Section 33-C in the case of an excluded tenant) within one year from the expiry of the period during which the landlord or the certificated landlord, as the case may be, is entitled to terminate the tenancy as aforesaid. In regard to termination of tenancy by the landlord the provisions of Sections 31 to 33-D (both inclusive) or of Section 33-A or 33-B (in the case of a certificated landlord) shall apply, so far as may be applicable. And the provisions of Sections 32 to 32-R (both inclusive) or Section 33-A or 33-C (in the case of an excluded tenant) shall, so far as may be applicable, apply in regard to the right of the tenant to purchase the land from the landlord. The issue in these cases relates to consequence of non-exercise of the right of the tenant to purchase the land under Section 32, within one year from the expiry of the period during which the landlord or certificated landlord is entitled to terminate the tenancy, as postulated in clause (b) of the proviso to clause (d) of sub-section (1) of Section 88 of the Act. It is true that in Section 88, there is no specific provision as to how the tenant should exercise his right to purchase the land under Section 32 of the Act though there is a provision in each of Sections 32-F, 32-O, 33-C and 43-1D of the Act requiring the tenant desirous of purchasing the land, in exercise of the right conferred on him, to give an intimation of his intention to purchase the land to the landlord and the Tribunal within the

prescribed period. Here the question that confronts us is : will the absence of a provision prescribing the mode to exercise the right to purchase the land, result in converting a tenant who is entitled to purchase the land into a deemed purchaser of the land under Section 32? The High Court answered the question in the affirmative. For the reasons that follow, in our view, the answer to the question cannot but be in the negative.

The scheme of the Act as could be gathered from its relevant provisions, is to give effect to the policy land for the tiller by clothing all the tenants with the right of ownership of the lands cultivated by them personally. A two-fold strategy is adopted in the Act - first, by making every tenant a deemed purchaser of the land personally cultivated by him under Section 32 of the Act and secondly, by conferring on the tenant, in specified cases, the right to purchase the land from the landlord, under Section 32 of the Act, held by him under personal cultivation.

The cases falling under the first category, namely, treating the tenant as a deemed purchaser, are noted hereunder : (1) under sub-section (1) of Section 32, every tenant shall be deemed to have purchased from his landlord the land held by him as a tenant with effect from April 1, 1957 which is referred to as, the Tillers Day; (2) under the first proviso to sub-section (1) of Section 32 providing that a tenant shall be deemed to have purchased the land with effect from the postponed date; (3) under the second proviso to sub-section (1) of Section 32 making the tenant a deemed purchaser of the land with effect from April 1, 1958; (4) a tenant is treated as a deemed purchaser of the land from the date mentioned in the following provisions : (i) under clause (a) of sub-section (1A) of Section 32 of the Act, (ii) under clause (b) of sub-section (1A) of Section 32 of the Act, (iii) under sub-section (1B) of Section 32 of the Act, and (iv) under Section 32-I; (5) in cases where Section 88-C applies the tenant is treated as a deemed purchaser from a date different from the Tillers Day : (i) under sub-section (1) of Section 33-C with effect from April 1, 1962, (ii) under proviso to sub-clause (iii) of sub-section (1) of Section 33-C, the deemed purchase of the land by the tenant will come into effect with effect from different dates mentioned therein; (iv) under clause (a) of sub-section (2) of Section 33-C, and (v) under clause (b) of sub-section (2) of Section 33-C.

In contra distinction to the deemed purchase from the landlord of the land held by the tenant under his personal cultivation under different provisions, referred to above, the cases falling under the second category speak of the right of the tenant to purchase the land from the landlord under Section 32 in the following cases : (1) under Section 32-F, (2) under Section 32-O, (3) under sub-section (3) of Section 33-C which relates to an excluded tenant; (4) under proviso to sub-section (3) of Section 33-C; (5) under sub-section (1) of Section 43-1D; (6) under clause (b) of the proviso to clause (d) of sub-section (1) of Section 88 of the Act; and (7) under sub-section (2) of Section 88-D.

Obviously, the content of these two rights - right to purchase the land and the right to own the land as a deemed purchaser - is entirely different. A tenant who is given a right to purchase from the landlord the land held by him for personal cultivation cannot be equated with a tenant who is declared to be the deemed purchaser of the land held by him. In the former case till the tenant exercises his right to purchase the land within the specified period and fulfills the requirements of the relevant provisions of the Act, he remains a tenant only; while in the latter case until the deemed purchase of the land becomes

ineffective under the relevant provisions of the Act, he remains an owner being a deemed purchaser of the land. Just as the right of the landlord to terminate the tenancy in the absence of exercise of the right within the specified period, cannot result in automatic termination of the tenancy so also the right to purchase from the landlord the land held by the tenant in the absence of exercise of the right within the specified period by the tenant, will not result in an automatic deemed purchase of the land by the tenant. Further by not exercising the right to terminate the tenancy within one year the landlord forfeits his right and in the same way by not exercising his right to purchase the land from the landlord, the tenant will also lose his right. He cannot by his default acquire a better position of a deemed purchaser. It would, therefore, be incorrect to hold that on the landlord not terminating the tenancy within the prescribed period, the tenant will be deemed to have exercised his right to purchase the land and became a deemed purchaser. It is apposite to note here that clause (c) of the proviso to clause (d) of sub-section (1) of Section 88 lays down, inter alia, that provisions of Sections 32 to 32-R shall, so far as may be applicable, apply to the right to purchase the land under the said clause (b). In our view, it hardly makes any difference whether the provision of clause (c) of the proviso to clause (d) of sub-section (1) of Section 88 is incorporated in clause (b) thereof or is enacted as a separate clause. Be that as it may, we shall refer to Section 32-F and Section 32-O whereunder an identical right is conferred on the tenant. Each of the said sections contain sub-section (1A) which says that a tenant desirous of exercising the right conferred on him, namely, the right to purchase the land under Section 32, shall give an intimation in that behalf to the landlord and the Tribunal in the prescribed manner within the specified period. A harmonious construction of the aforementioned provisions leads to the conclusion that giving of an intimation to the landlord and the Tribunal is a concomitant of the exercise of the right to purchase the land by the tenant even though the requirement of giving such intimation is not embodied in clause (b). The purpose underlying the requirement of giving of the intimation is that the landlord who is vitally affected by the exercise of the right to purchase the land from the landlord is made aware of the fact of purchase of the land by the tenant and the Tribunal which has to fix the price of the land, should take steps for that purpose. From a perusal of Section 32-G, it may be noticed that the Tribunal is entrusted with the duty of determining the purchase price suo motu as soon as may be either after the Tillers Day or after the postponed date. There is no provision in Section 33-G for a tenant to invoke that provision for determination of the purchase price of the land by filing an application for that purpose. A conjoint reading of the aforementioned provisions indicates that where the tenant is treated as a deemed purchaser, the Tribunal shall itself, after the specified dates, determine the price of the land in question and where determination of price of the land is necessitated upon the exercise of option by the tenant to purchase the land, the Tribunal shall do so after receiving the intimation of exercise of the right to purchase the land from the tenant. It is perhaps for this reason that a tenant who enjoys the right to purchase the land under the Act, is obliged to intimate to the landlord and the Tribunal that he is desirous of purchasing the land in exercise of that right.

There is no merit in the contention that Section 32 of the Act does not provide for giving any intimation, therefore, a tenant who exercises his option to purchase the land under clause (b) of the proviso to clause (d) of Section 88(1) of the

Act, is not required to give any intimation. We have already pointed out above that giving of an intimation is a concomitant of the exercise of the right to purchase the land under Section 32 by the tenant -- a right which is conferred on the tenant in specified cases under the Act -- and it is only thereafter the tenant becomes a deemed purchaser whereas Section 32, without anything more by the tenant, declares every tenant a deemed purchaser.

We are unable to agree with the view that the period of limitation of one year prescribed in the said clause (b) of the proviso, within which the tenant is entitled to purchase the land, is for the purpose of initiating proceeding. In our view, the tenant has to exercise the right to purchase the land and intimate that fact to the landlord and the Tribunal within the prescribed period. After the expiry of that period the exercise of that right by the tenant, if any, will be ineffective.

It is next contended that after the Act has come into force no person can remain a tenant of the land; he must either become the owner of the land or the land has to be disposed of in the manner provided in Section 32-P and in as much as Section 32-P does not refer to Section 88(1), the first respondent must be treated as a deemed purchaser. We are afraid we cannot accept the contention. In our view the premise itself is not correct. In cases falling under Section 37, a tenant remains a tenant as no deemed purchase or right to purchase is conferred on him under the said provision. Even otherwise merely because Section 88(1)(d) is not included in Section 32-P, it does not follow that the first respondent will become the owner of the lands in dispute even when he fails to comply with the requirements of clause (b) of proviso to clause (d) of sub-section (1) of Section 88. In our view, the High Court is not correct in holding that when the landlord fails to terminate the tenancy the proviso to Section 32 will be attracted and the tenant automatically becomes a deemed purchaser. Such a conclusion runs counter to the express words of clause (b) of the proviso to clause (d) of sub-section (1) of Section 88 set out alone. It says that within one year from the expiry of the period during which the landlord or certificated landlord is entitled to terminate the tenancy as aforesaid, the tenant shall have the right to purchase the land under Section 32 (or under Section 33-C in the case of an excluded tenant). The words the tenant shall have the right to purchase land under Section 32 are plain and lucid. Literally construed they speak that the tenant has the right to purchase the land. By importing an analogy from the contents of the proviso to Section 32, the said words cannot be read as the tenant shall be deemed to have purchased the land under Section 32. This would be nothing but substituting the provision in the enactment, which is clearly impermissible. In West Derby Union vs. Metropolitan Life Assurance Co. [(1897) AC 647], Lord Herschell (as he then was) observed :

I decline to read into any enactment words which are not to be found there and which would alter its operative effect because of provisions to be found in any proviso

Relying on the said dicta Lord Goddard in Bretherton vs. United Kingdom Totalisator Co. Ltd. [(1945) 2 All.E.R. 202] held :

A proviso is not to be construed as an enacting provision enabling something to be done which is not to be found in the statute itself.

Respectfully agreeing with the learned law Lords, we hold that in the said clause (b) the right to purchase the land from the landlord cannot be construed as a deemed purchase of the land from the landlord under Section 32 in view of the proviso thereto.

It will not be out of place to refer to Section 88 of the Gujarat Act which is in pari materia with Section 88 of the Maharashtra Act. By amending proviso to clause (d) of sub-section (1) of Section 88 of the Gujarat Act the words shall be deemed to have purchased were substituted for the words shall have the right to purchase. The amended provision will yield the desired result of making the tenant a deemed purchaser of the land from the landlord under Section 32 on the expiry of the period during which the landlord is entitled to terminate the tenancy under Section 31 of the Act.
The correct way to understand a proviso is to read it in the context and not in isolation. We may with advantage refer to the following observations of Moulton L.J. in R. vs. Dibdin [1910 Probate 57] :

The fallacy of the proposed method of interpretation is not far to seek. It sins against the fundamental rule of construction that a proviso must be considered with relation to the principal matter to which it stands as a proviso. It treats it as if it were an independent enacting clause instead of being dependent on the main enactment. The courts, as, for instance, in Ex p. Partington [(1844) 6 Q.B. 649]., Re Brocklebank [(1889) 23 Q.B.D.461], and Hill v. East and West India Dock Co. [(1884) 9 App.Cas.448], have frequently pointed out this fallacy, and have refused to be led astray by arguments such as these which have been addressed to us, which depend solely on taking words absolutely in their strict literal sense, disregarding the fundamental consideration that they appear in the proviso.

Thus read, it becomes explicit that sub-section (1) of Section 32 declares every tenant a deemed purchaser from April 1, 1957 and the provisos thereto in the circumstances mentioned therein modify the date mentioned in sub-section (1) from which the tenant will be a deemed purchaser. The said proviso can have no application to clause (b) of the proviso to clause (d) of sub-section (1) of Section 88.

If this be the true interpretation of clause (d) read with the proviso to sub-section (1) of Section 88 the fact that a different interpretation has prevailed for quite sometime in the State of Maharashtra, is no ground not to give effect to the correct position in law. Though it was urged that in various decisions the High Court held that the right to purchase the land under clause (d) of the proviso was treated as a deemed purchase, only one judgment of the High Court which could be secured by us is the one relied upon by the High Court in the impugned order, Rambhau Keshav Mhatre vs. Kashinuth G.Patil [Tenancy Law Reporter Vol.XIX (1971) at page 84]. We have perused that judgment. The question before the High Court was whether Section 32-O applied to the lands which were released from the management of the Government. It was held that the tenancy was subsisting on the date of cessation of Government management so Section 32-O did not apply and by virtue of the proviso to Section 88(1)(d) the

provisions with regard to purchase of the land automatically applied under Section 32 of the Act and, therefore, the fixation of price under Section 32-G followed as a matter of course. It appears to us that the learned Judge failed to appreciate the distinction between a tenant declared as a deemed purchaser under Section 32 and a tenant who is conferred with a mere right to purchase the land within the specified period of one year and also the relevant provisions of Section 88 of the Act. For the above reasons we cannot endorse the interpretation of the said provision by the learned single Judge of the Bombay High Court.

The lands in dispute were taken under the management of the Government under Section 44 of the Act on December 19, 1949, so from that date the provisions of Sections 2 to 87-A did not apply to the lands in dispute. However, from October 1, 1957, when the management of the Government of the lands in dispute was terminated, the tenancy of the first respondent which was not a permanent tenancy was subsisting in the said lands. Therefore from that date, the aforesaid provisions applied thereto but subject to the modification that (i) the appellant had the right to terminate the tenancy under Section 31 till September 30, 1958; and (ii) the first respondent had the right to purchase the lands in dispute under Section 32 till October 1, 1959. For working out the rights of the parties the provisions of Sections 31 to 31-D (both inclusive) and Sections 32 to 32-R (both inclusive), so far as may be applicable, applied to the termination of tenancy or the right to purchase the lands in dispute as aforesaid. Admittedly, the appellant did not terminate the tenancy of the first respondent under the aforesaid provisions before September 30, 1958, therefore, the first respondent had the right to purchase the lands in dispute till October 1, 1959. The first respondent also did not exercise that right and it is a common ground that he did not give any intimation of exercise of the right to purchase the lands in dispute to the landlord and the Tribunal. However, the first respondent filed application under Section 32-G in 1968 for fixation of the price of the lands in dispute. Not having exercised the right to purchase the lands in dispute from the landlord within the statutory period of one year, the first respondent has lost the right to purchase the land in dispute and therefore he cannot have the price of the land fixed under Section 32-G after about 10 years of the expiry of the statutory period. On this aspect the order of the High Court, under challenge, is liable to be set aside.

For the afore-mentioned reasons, the order under challenge, to the extent indicated above, cannot be sustained. It is accordingly set aside. The appeals are partly allowed there shall be no order as to costs.

.....J.
(Syed Shah Mohammed Quadri)

.....J.
(S.N. Phukan)

October 03, 2001