Kalam 32 R page No 114

BEFORE THE DESIGNATED MEMBER, MAHARASHTRA REVENUE TRIBUNAL, BENCH AT PUNE.

Presided over by : V.B.Kulkarni, Member (Judicial)

No.P/XI/4/2017

Shri Nitin Suresh Kadam
R/o.Kadam Niwas, Opp.Vishal Theatre
& Hotel Roxy,
Pimpri-411 018. .....Applicant

VS.

Shri.Vitthal Thaku Jagdale & otrs.,
R/o.Bopkhel, Tal.Haveli, Dist.Pune. .....Respondents

Revision Application U/s 76 of
the B.T.& A.L.Act,1948.

Appearance :- Adv. Shri Raja Suryawanshi for Revision Applicant
Adv. Shri J.P.Dhaytadak & Shri.Kadam for Respondents

Alongwith No.P/XII/7/2017

Shri.Sanjay Sashikant Kadam & otrs.,
R/o.Kadam Nivas, 300, Old Bazaar,
Gaadi Adda, Khadki, Pune-411 030. .....Applicants

VS.

Shri.Vitthal Thakuji Jagdale & otrs.,
R/o.Bopkhel, Near Vitthal-Rukmini Mandir,
Tal.Haveli, Dist.Pune. .....Respondents

Appearance :- Adv. Shri Raja Suryawanshi for Revision Applicants
Adv. Shri J.P.Dhaytadak & Shri.Kadam for Respondents

Revision Application U/s 76 of
the B.T.& A.L.Act,1948.

Proceeding:- u/s 32R, 32P r/w 84C of the Act

DATED:- 17th JULY, 2019

COMMON JUDGMENT

Being aggrieved by the judgment & order passed by Ld.appellate tribunal i.e. Sub-Divisional Officer, Haveli Sub Dn., Pune (hereinafter referred as the "appellate tribunal") in case No.Tenancy/remand/17/2009, dt.23/10/2017, the aggrieved Respondents therein have preferred two separate revision applications by invoking the provisions of Sec.76 of B.T.& A.L.Act, 1948 (hereinafter referred "the Act"), on the grounds more particularly set out in revision applications. Revision application No.4/2017 is filed by the only son of grantee, in whose favour the land was granted u/s 32R r/w 32P of the Act, and revision application No.7/2017 has been filed by remaining LRs of the original landlord. In both the revision applications common question of facts & Law being involved in respect of the same property and between the same parties, I have decided to dispose of both the revision applications by way of common judgment. For the purpose of brevity and convenience parties hereinafter referred in the same sequence and chronology in which they were referred in revision application No.4/2017 as the applicants or the respondents as the case may be. Facts either admitted or otherwise not disputed or otherwise duly proved can be summarized as under.

2. The land S.No.151/1 adm. 3 H 2 R, situated at Village Bopkhel, Tal.Haveli, Dist.Pune, was originally owned by Rajaram Kadam. Thaku Bala Jagdale was claiming tenancy rights as the tenant in possession prior 1/4/1957. As the tenant Thaku was in lawful possession over the disputed land on the *"tillers' day"* , the proceedings u/s 32G of the Act, through file No.32G/Bopkhel/14/62 has been decided in his favour. Not only that, but by order dt.22/6/1964 certificate u/s 32M of the Act, has been issued in the name of original tenant Thaku Bala Jagdale. On the strength of said certificate the name of tenant has been entered in revenue record as the occupant.

3. With these undisputed facts, facts giving rise to the present *lis* can be summarized as under:

On 10/1/1975 Suresh Kadam & others have filed an application u/s 32R of the Act, stating that the tenant / purchaser under the provisions of the Act, has failed to cultivate the land and also failed to get condone such act of non-cultivation by order of Competent Authority. Therefore, the possession shall be restored to the owner. The said application tried through tenancy file No.32R/Bopkhel/2/75. The application moved by the landlord came to be allowed by order dt.21/2/1975 and order of possession has been passed in

favour of the landlord. After the decision passed in tenancy file No.32R/Bopkhel/2/75, the original tenant Thaku Bala Jagdale reported dead in the year 1978. After the death of original tenant his LR i.e. Respondent No.1 moved a Tenancy Appeal No.17/2009 before Ld.appellate tribunal and thereby, challenged the order passed in tenancy file No.32R/Bopkhel/2/75 on several grounds stated in memo of appeal. In the first round of litigation the proceedings of Tenancy Appeal No.17/09 went upto Hon'ble High Court. Lastly, inview of the judgment & order passed in Writ Petition No.50/2013 the orders passed by Ld.appellate tribunal as well as MRT in Tenancy Appeal No.17/09 came to be set aside and matter was remanded with directions to decide the "delay condonation application" at first and then proceed to decided the appeal on merit. In consequence thereof after remand, the proceeding has been re-registered as No.Tenancy/remand/17/2009 and at first the Ld.appellate tribunal has passed the order of condonation of delay and proceeded to decide the appeal on merit. After hearing the appeal on merit the Ld.appellate tribunal has set aside the order passed by ALT in tenancy file No.32R/Bopkhel/2/75. Being aggrieved by the said judgment & order aggrieved parties have preferred two separate revision applications as stated supra.

4. Pending the hearing of revision applications it has become evident that the original proceeding of tenancy file No.32R/Bopkhel/2/75 was not either available before Ld.appellate tribunal nor it was made available before this Tribunal till the hearing has been concluded. In short, non-receipt of tenancy file No.32R/Bopkhel/2/75 is not disputed by either of the parties to the revision application, but, consented to decide the matter on merit on the basis of record available before this Tribunal. In short, after the receipt of R&P from Ld.appellate tribunal and R&P of tenancy file No.32G/Bopkhel/14/62, the matter has been finally heard before this Tribunal. Heard Ld.Adv.Shri.Suryawanshi for the Revision Petitioner & Ld.Adv.Shri.J.P.Dhaytadak for Respondent No.1&2. In addition thereto, heard Ld.Adv.Shri.Kadam for Respondent No.15 & 16 in revision application No.4/2017. on behalf of the Respondents they have submitted their written arguments in support of their submissions and also placed reliance on several precedents on facts as well as Law.

5. During the course of arguments Ld.Adv.Shri.Suryawanshi for the Revision Petitioner strongly submitted that the judgment & order passed in tenancy file No.32R/Bopkhel/2/75 is ever based on merit, particularly on the statement of admission made by the tenant and same has been executed long back. Since from the date of execution of the said order, at site and in revenue record, the allottee thereunder are in possession of the disputed land. Therefore, the inferences drawn by the Ld.appellate tribunal while setting aside the order passed by ALT in tenancy file No.32R/Bopkhel/2/75 are based on surmises and against the settled principles of Law. The grounds stated in memo of appeal are not at all sustainable at the instant of the LRs of

the tenant after the gap of time, particularly when the maker of the statement has not agitated the grievance therefor during his lifetime. In short, by keeping reliance on several precedents Ld.Adv.Shri.Suryawanshi for the Revision Petitioner strongly submitted that the judgment & order passed by Ld.trial tribunal in tenancy file No.32R/Bopkhel/2/75 has reached to its finality and the order passed by Ld.appellate tribunal setting aside at the instant of LRs of the deceased tenant is bad-in-law.

6. Ld.advocate for the Respondent No.15 & 16 in revision application No.4/17 have supported the arguments of Revision Petitioner and in addition thereto, submitted that they have also equal right in the property alongwith Revision Petitioner.

As against this for the contesting Respondent No.1&2 strongly submitted that there was no cause of action for filing an application u/s 32R of the Act, against the tenant as the land was not ever fallow, but was ever and continuously under the cultivation. The fact of cultivation is reflected in revenue record. Therefore, the judgment & order passed by ALT in the year 1975 is not sustainable. Not only that, but the grounds stated in memo of appeal are self-explanatory to demonstrate as to how the order passed against the tenant / purchaser, was collusive, bad-in-law. Reliance kept on the statement of tenant by ALT is not permissible in Evidence Act. In short, the contesting Respondents have specifically contended that the Ld.appellate tribunal has passed proper and legal judgment supported by sound reasonings. Therefore, same does not call for interference therein through this Tribunal within its limited jurisdiction. Not only that, but on the point of Law, Ld.Adv.Shri.J.P.Dhaytadak for the Respondents by keeping reliance on the precedent laid down by our Hon'ble Supreme Court in the case of *Mohamad Kavi Vs. Fatimabai Ibrahim, reported in 1997 (6) SCC-71,* strongly submitted that the application moved by the owner / landlord u/s 32R of the Act, being not filed within a *'reasonable time'* same is hit by the provisions of Limitation Act, and on this sole ground also the order passed by ALT in 1975 does not sustain in eye of Law. In short, the revision being devoid with merits deserves to be dismissed.

7. After considering the oral as well as written submissions made by respective advocates before this Tribunal, and after keen perusal of R&P received by this Tribunal, except the original proceedings of ALT in tenancy file No.32R/Bopkhel/2/75, following points arise for my determination. I have recorded my findings with reasons thereon as under :-

	Points	**Findings**
1.	Whether the judgment & order passed by ALT in tenancy file No.32R/Bopkhel/2/75 suffers from statutory jurisdiction with ALT and as such nullity in	Negative

	eye of Law?	
2.	Whether the Respondent No.1 has proved their possession over the disputed land since after the passing of order in tenancy file No.32R/Bopkhel/2/75?	Negative
3.	Whether the judgment & order passed by Ld.appellate tribunal is correct and legal in eye of Law?	Negative
4.	Whether the judgment & order under revision calls for interference therein within the limited revisional jurisdiction of this Tribunal as per Sec.76 of the Act? If yes, upto what extent?	Yes. As per final order

Reasons

8. Point No.1to4: While challenging the order passed by the ALT in tenancy file No.32R/Bopkhel/2/75, by invoking the remedy of appeal in the year 2009 the foremost ground of attack made by the present Respondent No.1&2 is that of the land was not ever un-cultivated and the standing crop shown in the column of cultivation is self-explanatory to that effect. In support of their submissions they have kept reliance on the entries made in the column of cultivation for the year 1971-75. No doubt, after perusing the 7/12 extracts of those period, it amply suggests that the land was under cultivation, but, the statutory provisions cannot be ignored while appreciating the evidence on record. It is well settled principle of law, that the entries in revenue record though having presumptive value they are rebutable and rebutable evidence can be produced by in any form including the statement of maker against his own interest. Herein this case, one thing has been certain that the original proceeding of tenancy file No.32R/Bopkhel/2/75 is not traceable. However, the order passed therein which is under challenge is on record, which is self-explanatory and also contains the part of the statement amounting to admission maker by the tenant in possession at the material time. A statement of maker which would amount an admission against his own interest, which is quoted in body of judgment if quoted here that will meet the ends of justice, which runs as under:

> "----------•Ö´Öß-Ö ÖÊ»ÖêÖê “ÖÖ¸ü ¾ÖÂÖì ¯ÖÏŸµÖÖ ¯Ö›ü †ÖÆêü. ¯Öß•ú ¯ÖÖüÖß ¤üÖÖ×¾Ö»Öß ŸÖß ²Ö¸üÖê²Ö¸ü -ÖÖÆüß. •ú•ÖÔ ÆüÖê‰ú-Ö ŸµÖÖ´ÖãôêûÖ»ÖÖ •Ö´Öß-Ö ¾Ö×Æü¾ÖÖ™ü

•ú¸üŸÖÖ †Ö»Öß -ÖÖÆüß. ´Öê.ú»ÖêŒ™ü¸üÃÖÖêÖ µÖÖÓ“Öß ¯Ö¸ü¾ÖÖ-Ö ÖßŸÖêŸÖ»Öê»Öß -ÖÖÆüß.--------"

9. While supporting the above part of statement as a sufficient proof of admission appearing in the part of body of judgment Ld.Adv.Shri.Suryawanshi for the Revision Petitioner rightly called my attention towards the following two precedents.

(i) State / Orrisa Oil Industries, AIR 1982 Ori-245
(ii) State of Maharashtra / Admane, AIR 1995-SC-350

The proposition of law laid down in these precedents can be summarized as under-

> "Where a statement appears in the judgment of the Court that a particular thing happened or do not happened before it, it ought not ordinarily to be permitted to be challenged by a party unless both the parties to the litigation agree that the statement is wrong. Factual recitals of observations made in the judgment or order shall taken to be true unless rebutted."

10. Now, this evidentially admission given by the maker thereof i.e. original tenant is sufficient to rebut the presumption available for the entries made in the column of cultivation. While making attack on the said part of statement amounting to admission, Ld.Adv.Shri.J.P.Dhaytadak for the Respondents strongly submitted that the original statement is not available on record, certified copy thereof will not take the place of required proof and it should be ignored. However, Ld.Adv.Shri.Suryawanshi for the Revision Petitioner, while challenging the said submissions strongly submitted that the observations made in the judgment would amounting sufficient proof about the truthfulness therein. In support of his submissions in addition to the precedents quoted in Para-9 supra, he has called my attention towards the precedent laid down by our Hon'ble Supreme Court in the case of ***K.K.Chari / R.M.Sheshadri, AIR 1973-SC-1311,*** wherein Their Lordships have ruled as under:

> "If the tenant infact admits that the landlord is entitled to possession on one or the other of the statutory grounds mentioned in the Act, it is open to the Court to act on that admission and to make an order for possession in favour of the landlord without further enquiry."

11. Secondly, Ld.Adv.Shri.J.P.Dhaytadak for the Respondents strongly submitted that the statement of the tenant of which certified copy is on record do not satisfies requirement of "Read & Recorded." Therefore, it is sufficient to discard its evidentially value. No doubt, there is no remark on the copy of statement to the effect that the statement was read over by the maker thereof. However, the part of judgment is self-explanatory to that effect. Not only that, but, merely because that irregularities appearing in

record, judicial process will not be invalidated. In support of his submissions Ld.Adv.Shri.Suryawanshi has called my attention towards the precedent laid down by Hon'ble Kerala High Court in the case of ***G.Bhagwat Singh / State of Kerala, 2009 CrLJ-1375,*** wherein His Lordships have ruled as under:

> "The presumption is that the evidence of the witnesses must have been recorded truthfully and accurately and as such the plea that the depositions were not correctly recorded cannot be accepted in the absence of anything to dislodge the presumption."

12. Thirdly, Ld.Adv.Shri.J.P.Dhaytadak for the Respondents while supporting the judgment & order passed by Ld.appellate tribunal, strongly submitted that despite of passing the order in tenancy file No.32R/Bopkhel/2/75 neither it was ever executed nor the tenant was dis-possessed at any point of time and till this date, particularly till the disputed land has been transferred to the Respondent No.2, same was in actual possession of Respondent No.1. Therefore, the order which has been passed by the Ld.trial tribunal in the year 1975 is nothing but, it is a paper order which has not ever executed. I do not find strong substance in these submissions simply because soon after the passing of order in the year 1975 the subsequent events took place in respect of the disposal of the property in accordance with the Sec.32P r/w 84C of the Act, and the name of the allottee in the column of occupancy as well as column of cultivation came to be recorded since thereafter. Bare perusal of 7/12 extracts which are on record alongwith the application dt.10/7/2019, amply suggests that the name of allottee came to be recorded in record of rights and in the occupancy column and column of cultivation since 1979-80 the name of allottee is appearing as cultivator showing mode of cultivation as Rit No.1. Not only that, but after the allotment made in the name of Suresh Rajaram Kadam, name is entered in revenue record through M.E.No.891 and the entry has been certified on 23/9/75. Prior to it M.E.No.890 came to be certified showing the vesting of land in favour of the Government as a property available for its disposition according to the provisions of Sec.32P r/w 84C of the Act. The said mutation entries though certified in the lifetime of original tenant i.e. Thaku, he has not ever challenged the same and as such till this date. The certified M.E.No.890 & 891 reached to its finality. So far as the effect of vesting of property in favour of the Government by taking the note of order passed u/s 32R against the tenant / purchaser as per Sec.32R of the Act, is sufficient proof of title and possession of Government after vesting of property. In support of above observations I may keep reliance on the following precedents.

(i) Dr.M.Ismail / Union of India, AIR 1995-SC-695
(ii) Subhash / State of Maharashtra, 1998 MhLJ (1)-595

The meaning of word "the vest and effect thereof" has been explained in the above precedents by Their Lordships which can be summarized as under:

> "The meaning of word "vest" used in Sec.32R of Tenancy Act has to be determined in the light of text of the Statute and the purpose of its use by applying principle of harmonious construction and also for giving effect to the structural provisions, the land is assume to have been vest in Government after title is divested from the tenant. If this principle has not followed that will affect the entire scheme of the Act in its absurdity. Therefore, once the land is divested from the tenant it goes to the State and the State thereafter dispose it of in the manner prescribed u/s 32P of the Act."

13. After going through the above proposition of Law, I do find that once the order dt.27/2/1975 has been effected in revenue record through proper mutation entries and reached to its finality, heavy burden lies on the Respondents to establish the fact that despite of passing of order u/s 32R or even after vesting of property in Government and its allotment in favour of the allottee, they remain in possession. They have to establish the said fact with sufficient documentary evidence. Unfortunately, the revenue record is completely against the LRs of the tenant who have not objected the same till 2010. Not only that, but, after the death of the tenant name of his LRs i.e. present Respondent No.1 never reflected in the column of occupancy or in the column of cultivation at any point of time till the dispute started in the year 2009. It is for the first time, when in the first round of litigation appeal has been allowed without deciding the "delay condonation application", the name of LR of the tenant has been recorded in revenue record and not prior to it. Suffice to say that by way of consistent revenue record it has been duly proved that the order passed by Ld.trial tribunal in the year tenancy file No.32R/Bopkhel/2/75 has not only a paper order, but, has been effectively executed by taking proper entries in revenue record and which are not ever objected either by the tenant himself in his lifetime or his LRs till 2010. In short, in view of the proposition of Law laid down in the cases referred supra, it has become evident that the effect of vesting the property with the State would amount the effect of delivery of possession, for which separate proof of execution is not necessary or at least mandatory when consistent revenue record supports the case of the Revision Petitioners.

14. Furthermore, Ld.Adv.Shri.J.P.Dhaytadak for the Respondents called my attention towards the document of Will executed by the tenant in his lifetime i.e. on 24/8/1974, so as to prove the fact of possession over the disputed land with the tenant. Without touching to the admissibility of the document of Will, I may state here that so far as the possession of the tenant Thaku Bala Jagdale in the year 1974 there was no dispute, dispute started in the year 1975 and i.e. for cultivation and not for possession. The case u/s 32R has initiated not by denying the possession of the tenant, but, contending that the

land is not under cultivation. Possession over the land and the cultivation of the land are two distinct and separate terminologies. Therefore, mere recitals in Will about the possession of the tenant in the document dt.24/8/1974 are not sufficient to hold that the order passed in tenancy file No.32R/Bopkhel/2/75 has not effectively and lawfully executed at any point of time.

15. Furthermore, Ld.advocate for the Respondents while supporting the judgment & order passed by SDO, strongly submitted that if the provisions of Sec.32P and 84C read together, it amply suggests that the landlord is not quoted in priority list, so as to allot the land to him u/s 32R of the Act. After keen perusal of all these relevant provisions I am of the humble opinion that, before considering the priority list given in Sec.32P(2)(c)(i)to(ix), the Tribunal has to see impact of main provision of Sec.32P(2). The provisions of Sec.32P(2)(c)(i)to(ix) can not be read in isolation by keeping aside the provisions of Sec.32P(2), which runs as under:

Sec.32P(1)---------

(2)Such direction shall be providing that--------

(a)----------

(b) that the land shall, subject to the provisions of Sec.15, be surrendered to the former landlord;

(c)----------

The word "former landlord" has inserted in Sec.32P(2) by amendment and thereby, recongnized the right of former landlord for the possession u/s 32P of the Act. Thus, on this ground also attack made by Respondent No.1 challenging the order passed by ALT does not sustain in eye of Law.

16. Last not but the least, Issue raised by Ld.Adv.Shri.J.P.Dhaytadak for my consideration is that the order passed by ALT in tenancy file No.32R/Bopkhel/2/75 is a nullity and without jurisdiction as same is suffered by fraud, collusion and mental inability of the tenant to make a statement amounting to admission against his own interest. At the first hand I may state here that the provisions of Tenancy Act are self-explanatory to the effect that the dispute arising between the landlord & tenant within the ambit of any of the provisions made under the Act, shall be tried by the Mamlatdar or the Tribunal as the case may be. Therefore, once the proceedings has been initiated before the Mamlatdar u/s 32R, who is competent enough to decide the issue raised in the same proceedings before him cannot be turned as a proceedings without statutory jurisdiction. While explaining the word "void, voidable and nullity" of the orders passed by the Tribunal or the Court, our Hon'ble High Court, has ruled that in order to interpret the court order passed by the Court "nullity", such order should have been passed by the authority having no statutory jurisdiction. So far as the orders in form of void or voidable, same cannot be termed as nullity, unless and until grounds of attack

against the same are established and order passed by the authority set aside by the competent appellate or revisional authority thereto. In short, void or voidable things will remain valid till same has been set aside by the Superior Court. However, the order passed by the Court, which are nullity can be challenged in any collateral proceedings also for which remedy of appeal is not required to be invoked. In support of above observations I may keep reliance on the precedent laid down by Hon'ble High Court, in the case of ***Tukaram Chopde / Andappa Walekar, 2012 MhLJ(3)-150.*** The proposition of Law on all these issues summarized by our Hon'ble High Court, after considering the several precedents of our Hon'ble Supreme Court runs as under:

> "It is a fundamental principle well established that a decree passed by a Court without jurisdiction as a nullity, and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings. Invalidity of the order, though plainly visible, it is necessary to take out necessary and appropriate proceedings to establish the case of invalidity and get it quashed, failing which the said order will remain as effective as any other valid order. A party aggrieved by the invalidity of the order has to approach the Court for relief of declaration that the order against him is inoperative and not binding upon him and that he must have approached the Court within the prescribed period of limitation. Remedy for a tenant to contend that the certificate was obtained by fraud is a suit in Civil Court. There is no provision u/s 33B empowering the Tenancy Court to adjudicate upon the question whether any particular order was obtained by any party by fraud. The forum for agitating the question of fraud is the Civil Court; not the Tenancy Court. A suit should have been filed by the tenant within the requisite period of limitation after he got the knowledge of the fraud, if any, for a declaration that the order obtained by the landlord dt.7/3/1975 was a nullity on the ground that it was obtained by fraud."

17. I have gone through the above precedent very carefully and after digesting the facts & Law enunciated therein, I am of the humble opinion that the facts and circumstances of the case referred supra are quite identical that too with the case at hand. Therefore, same is applicable to the present case under upholding the judgment passed in 1975 u/s 32R of the Act. The subsequent purchaser through the tenant i.e. Respondent No.2 has no any legal right stronger than the Respondent No.1, who has utterly failed to prove the title and possession over the disputed land since after passing of order in tenancy file No.32R/Bopkhel/2/75. In short, inview of the observations made supra, it has become evident that the order passed in tenancy file No.32R/Bopkhel/2/75 has reached to its finality on merit and therefore, the inferences drawn by the Ld.appellate tribunal while setting aside the said

order in support of his judgment are without jurisdiction, otherwise which is within the jurisdiction of Civil Court only and i.e. in form of proper suit before the Civil Court. Inferences of fraud or collusion cannot be drawn by the tribunal, which should be done only by Civil Court within the meaning of the Code. Therefore, the judgment & order passed by Ld.appellate tribunal does not sustain in eye of Law either on merit or even on facts. In the given set of facts, the proposition of Law laid down by our Hon'ble Supreme Court, helps me to hold that the impugned order calls for interference therein through this Tribunal within its limited revisional jurisdiction. In support of above observations I may keep reliance on the following precedents.

(i) Baldevji Vs. State of Gujarat, AIR 1979 SC, page-1326

(ii)Shamrao Vs. Shantabai, 1995 Vol.I, Mhlj-668

(iii)Laxman Vs. Vishwanath, 2007(1) ALL MR-36

The Law laid down in those precedents can be summarized as under :

> *"The provisions of revision within the limits of Sec.76 of the Act are ever in form of second appeal as contemplated u/s 100 of CPC. Same principle applies for an application for revision before the revenue tribunal. The Tribunal has jurisdiction to examine the finding of fact if same are based on no evidence or are found to be perverse in eye of law. A decision arrived at without deciding the proper issues of fact is an essence of decision contrary to law.*

18. By keeping reliance on the above precedents, I hold that the judgment & order passed by Ld.appellate tribunal deserves to be set aside and that too the order passed by the Ld.trial tribunal should have to be confirmed. With these observations, I answer the 'Point No.1,2 & 3 in negative' and 'Point No.4 as per final order' and proceed to pass the following order.

ORDER

Both the revision applications are hereby allowed.

The judgment & order passed by Ld.appellate tribunal / SDO Haveli in case No.Tenancy/remand/17/2009, dt.23/10/2017 is hereby set aside.

The judgment & order passed by ALT in tenancy file No.32R/Bopkhel/2/75 is hereby confirmed.

No order as to costs.

R&P received from the tribunals below be sent back immediately.

Intimation of this order be sent to both the parties & lower tribunals.

Original judgment & order be kept in Revision No.4/2017 & certified copy of the same be kept in Revision No.7/2017.