

ITEM NO.30

COURT NO.12

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 13637-13638/2017

(Arising out of impugned final judgment and order dated 03-03-2016 in CRA No. 328/2007 12-08-2016 in RPST No. 16429/2016 12-08-2016 in CRA No. 328/2007 passed by the High Court Of Judicature At Bombay)

KRUSHNABAI PANDURANG NALAVADE & ANR.

Petitioner(s)

VERSUS

SANTOSH BALKRUSHNA JUNJUNWALA

Respondent(s)

Date : 08-04-2022 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MRS. JUSTICE B.V. NAGARATHNAFor Petitioner(s) Mr. Vinay Navare, Sr. Adv.
Mr. Pravartak Pathak, Adv.
Mr. Ravindra Chingale, Adv.
Ms. Deepalaxmi Matwankar, Adv.
Ms. Gwen Karthika, Adv.
Ms. Abha R. Sharma, AORFor Respondent(s) Mr. Sandeep Sudharkar Deshmukh, Adv.
Mr. Nar Hari Singh, AORUPON hearing the counsel the Court made the following
O R D E R

We have heard Mr. Vinay Navare, learned Senior Advocate, appearing on behalf of the petitioners and Mr. Sandeep Sudhakar Deshmukh, learned counsel appearing on behalf of the respondent.

We have gone through in detail the averments made in the plaint and the relief(s) sought in the plaint. No error has been committed by the High Court in returning the plaint to the petitioner to present it before the appropriate Court/forum under the Maharashtra Tenancy and Agricultural Lands Act, 1948 (for short "the Tenancy Act"). As such, we do not approve the order passed by

the High Court returning the plaint to the plaintiff to present it before the appropriate Court/forum while deciding the application under VII Rule 11(d) of the CPC. Once the case falls within Order VII Rule 11(d) of the CPC, the only order which can be passed by the Court is to reject the plaint, but not to return the plaint to present it before the competent Court/forum.

Be it as it may, the respondent is not in appeal and even otherwise the petitioners can approach the authority under the Tenancy Act, we see no reason to interfere with the impugned order passed by the High Court. The present Special Leave Petitions stand dismissed.

However, it is observed that, as and when the petitioners approach the appropriate forum under the Tenancy Act, the proceedings be decided and disposed of at the earliest in accordance with law and on its own merits and thereafter the necessary consequences may follow.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
BRANCH OFFICER