

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4503 OF 2015

Ramesh D. Patil and anr. .. Petitioners  
vs.  
The State of Maharashtra and ors. .. Respondents

Mr. S.S. Patil for the Petitioners.

Mr. S.D. Rayrikar, AGP for Respondent Nos.1 and 3.

Mr. S.M. Oka i/b Mr. Sagar A. Joshi for Respondent Nos.2(2),(3),  
4(2) to 4(4), 5(2), 5(3), 6 to 10 and 14.

**CORAM : M. S. SONAK, J.**

**DATE : 20 JUNE 2016.**

**P.C. :-**

1] The challenge in this petition is to the order dated 2 September 2014 made by the Additional Collector, Thane under the provisions of the Maharashtra Land Revenue Code, 1966 (Code).

2] Mr. Oka, learned counsel for respondent Nos.2(2),(3), 4(2) to 4(4), 5(2), 5(3), 6 to 10 and 14, raises a preliminary objection by submitting that the petitioners have an alternate and efficacious remedy of instituting an appeal under Section 247 of the Code against the impugned order before the Divisional Commissioner.

3] If the Schedule-E, which referred to in Section 247 of the Code is perused, it does transpire that the impugned order can be

appealed against before the Divisional Commissioner. Since, this is a statutory remedy available under the Code itself, there is no necessity to entertain the present petition.

4] This petition is therefore, dismissed with liberty to the petitioners to institute an appeal before the Divisional Commissioner to challenge the order dated 2 September 2014.

5] In the peculiar facts and circumstances of the present case, it is directed that in case, the petitioners does institute such an appeal within four weeks from today, then the Divisional Commissioner will hear and decide the same on its own merits and in accordance with law, without advertng to the issue of limitation in institution of the said appeal. Mr. Oka, learned counsel for some of the respondents, has in fact stated that the issue of limitation in the institution of said appeal will not be raised. This direction is issued because the petitioners had instituted present petition and the same was being pursued by them *bonafide* before this Court. The appeal, if instituted within four weeks, may be disposed of, as expeditiously as possible by the appellate authority.

6] Save and except as aforesaid, it is made clear that all contentions of all parties on merits are kept open to be determined by the appellate authority.

7] The petition is accordingly dismissed, with liberty as aforesaid. There shall however, be no order as to costs.

**(M. S. SONAK, J.)**

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