

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7239 OF 1999

Shri Baburao Karbhari Darekar .. Petitioner
Vs.
The Tahsildar, Niphad and ors. .. Respondents

Mr.PN. Joshi a/w Mr.N.M.Pujari, for the Petitioner.
Mr.S.D.Rayrikar, AGP for Respondents No. 1 to 5.

CORAM : M.S.KARNIK, J.
DATE : 26th SEPTEMBER, 2016

P.C. :

. Heard learned Counsel for the petitioner and the learned A.G.P. None for the other respondents though duly served.

2. The present Writ Petition is of the year 1999. Only memo of the Petition is on record. It appears that previously the matter was dismissed for default and later on, the same was restored. The learned Counsel for the petitioner has tendered the copy of the Petition along with all annextures. One copy has been served to learned AGP appearing for respondents No.1 to

5. The copy of the Petition along with the annextures is taken on record.

3. Learned Counsel for the petitioner, while assailing the order passed by the Secretary and Officer on Special Duty (Appeals) Revenue and Forests Department the respondent No. 5 herein, has contended that the impugned order is passed on the premise that as per Section 257 of the Maharashtra Land Revenue Code, 1966, (for short 'Code') once the revisional powers have been exercised by the Additional Commissioner, the Revision Application before respondent No.5 which is in fact a second Revision is not maintainable.

4. Though the Revisional Authority has observed that the Additional Commissioner, Nashik Division has taken into consideration all the legal aspects of the case, however, no independent reasons are recorded by the Authority while disposing of the Revision.

5. Learned Counsel for the petitioner has contended that the view taken by respondent No.5 that second Revision is not maintainable, is not correct. According to him, this Court has held that second Revision under Section 257 of the Code is very much maintainable and for this submission, he places reliance on the decision of this Court in the case of **Gurudassing Nawoosing Panjwani Vs. The State of Maharashtra and ors.** in Letters Patent Appeal No. 55 of 2003 in Writ Petition No. 7477 of 2002 on 13th July 2005.

6. This position of law is not controverted by learned AGP appearing for respondents No. 1 to 5 by pointing out any other contrary decision.

7. In this view of the matter, the impugned order dated 05/04/1999 passed by respondent No.5 is quashed and set aside.

8. The Revision be now heard by the respondent No.5

afresh and appropriate decision on merits and in accordance with law may be taken.

9. The petitioner undertakes to appear before respondent No.5 or the Authority empowered to hear the present revision on 18/10/2016 at 3.00 p.m..

10. Respondent No.5 shall proceed to hear the Revision on its own merits after due notice to the respondents and in accordance with law. It is expected that the revision may be heard as expeditiously as possible and in any case, within a period of 3 months from the date of service of notice on respondents.

11. The interim relief which was already granted by this Court shall continue to operate till the disposal of the revision. Writ Petition is disposed of.

(M.S.KARNIK, J.)