

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 1629 OF 2016

(Shri Ashok Vitthalrao Dongre ..vs.. Shri Narayan Gangaram Dhakne and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 28-07-2016

Heard Shri M.D. Zoting, Advocate for the petitioner, Shri S.R. Deshpande, Advocate for the respondent No.1 on caveat and Mrs. H.N. Prabhu, Assistant Government Pleader for the respondent Nos.5 and 6.

2. The Tahsildar initiated proceedings under Section 49-B of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (hereinafter referred to as "the Act of 1958") and passed an order on 11-12-1972 recording that the present respondent No.1-Narayan Gangaram Dhakne had filed an affidavit dated 30-06-1972 stating that he was not the tenant of concerned suit land and in view of this, the proceedings were dropped.

3. The present respondent No.1 sought review of the above order by filing an application before the Tahsildar under Section 258 of the Maharashtra Land Revenue

Code, 1966 read with Rules 54-A, 54-B and 54-C of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Rules, 1959. The Tahsildar, by the order dated 05-10-2007, allowed the review application. This order was challenged by the petitioner before the Sub-Divisional Officer in revision under Section 257 of the Maharashtra Land Revenue Code, 1966. The Sub-Divisional Officer dismissed the revision application by the order dated 01-11-2011. This order was challenged by the petitioner before the Maharashtra Revenue Tribunal in revision under Section 111 of the Tenancy Act of 1958. The Tribunal, by the order dated 07-08-2015, dismissed the revision concluding that it is not maintainable. The petitioner being aggrieved in the matter has filed this petition.

4. Shri S.R. Deshpande, Advocate for the respondent No.1 has submitted that revision under Section 111 of the Tenancy Act of 1958 is not maintainable against an order passed in revision under Section 257 of the Maharashtra Land Revenue Code, 1966. The submission made on behalf of the respondent No.1 is proper and therefore, it has to be held that the impugned order passed by the Maharashtra Revenue Tribunal does not require any interference.

At this stage, the learned Advocate for the petitioner has submitted that the orders passed by the Tahsildar and Sub-Divisional Officer are illegal and

without jurisdiction and the petitioner cannot be rendered remediless. He seeks liberty to avail remedy according to law.

5. In view of the above, following order is passed :

The petition is disposed with liberty to the petitioner to avail appropriate remedy according to law to challenge the orders passed by the Tahsildar and Sub-Divisional Officer. In the circumstances, the parties to bear their own costs.

JUDGE

adgokar

CERTIFICATE

I certify that this Order uploaded is a true and correct copy of original signed Order.

Uploaded by : P.M. Adgokar.

Uploaded on : 30-07-2016.

P.A. to Hon'ble Judge.