IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2434 OF 2017

Chanbasappa Karbasappa Chinchole
Age: 62 years, Occu.: Agri.,
R/o Near Shivaji College,
Main Road, Omerga, Tq. Omerga,
Dist. Osmanabad. ..PETITIONER

VERSUS

1. State of Maharashtra
   Through Collector, Osmanabad.

2. Tahsildar
   Tahsildar Office, Omerga
   Dist. Osmanabad. ..RESPONDENTS

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Mr. P.V. Barde, Advocate for petitioner.
Mr. S.R. Yadav - Lonikar, A.G.P. for respondents.

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CORAM : S.B. SHUKRE, J.
DATED : 15th MARCH, 2017

ORAL JUDGMENT :

1. Issue notice for final disposal to the respondents. Learned A.G.P. waives service of notice for respondents.

2. Rule. Rule made returnable forthwith. Heard finally by consent of both the parties.

3. Considering the fact that the original file of the Collector Office was before the Trial Court during pendency of the suit and the same was sent back after disposal of the suit, which is evident from the judgment and order dated 28th July, 2003 passed in Special Civil Suit No. 83 of 1994, I do no think that any inconvenience would have been caused to any of the parties in keeping the original file in Collector Office, on record of first Appellate Court.

4. By order dated 09th December, 2016 passed by the learned District Judge which is impugned herein, it is held that original record and proceedings are not necessary for deciding the appeal. But, when they were very much there during pendency of the suit, and they are also considered by the Trial Court, and appeal being continuation of the original proceeding, the parties would be better assisted if original record and proceedings are made available for their perusal. In view of this, I find that the impugned order is arbitrary and deserves to be quashed and set aside.

5. Writ Petition is allowed. Impugned order is quashed and set aside. Application at Exhibit 18 is allowed. The record and proceedings be called from the Collector Office within six weeks from the date of the

order and kept alongwith the paper book of the Regular Civil Appeal No. 47 of 2015. Rule made absolute in those terms. No costs.

(S.B. SHUKRE, J.)

SSD