

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1570 OF 2014

Smt. Archana Gokul Kathawate,
Age 41 yrs, Occ: Household,
R/o. Jadhavgalli, Vaijapur,
Tq. Vaijapur, Dist. Aurangabad.

...Petitioner

Versus

1. Deputy Director of Land Records,
Aurangabad.
2. The Superintendent of Land Records,
Aurangabad.
3. Taluka Inspector of Land Records,
Vaijapur, Dist. Aurangabad.
4. Smt. Gaurabai Raju Shetti,
Age Major, Occu: Household,
R/o. Murari Park, Vaijapur,
Tq. Vaijapur, Dist. Aurangabad.

...Respondents

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Mr. Chandrakant R.Thorat, Advocate, for the petitioner.
Ms. S.S.Raut, Assistant Government Pleader, for respondent
nos. 1 to 3.

Mr. S.A.Deshmukh, Advocate, Mr. S.S.Kulkarni, Advocate, for
respondent no.4.

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CORAM: SUNIL P. DESHMUKH, J.

DATE : December 13th, 2017

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith.
2. Heard learned Counsel for the parties finally by consent.
3. Learned Counsel appearing for petitioner Shri Chandrakant R.Thorat points out that appeal filed against order dated 23rd of October, 2013, in the proceedings bearing No.*N.BHU/APPEAL/S.R.2081/2013*, has been decided without issuing notice and / or hearing the petitioner. Learned Counsel for the petitioner submits that the petitioner is aggrieved by order dated 23rd October, 2013 and, as such, for the purported reason of alternate remedy, appeal has been disposed of without hearing the petitioner. Learned Counsel states that had an opportunity come his way, may be he would have been able to point out that appeal could have been decided without getting swayed by alternate remedy.
4. Learned Counsel for respondent No.4 Mr. S.A.Deshmukh, holding for Mr.S.S.Kulkarni, submits that may be ostensibly, the impugned order has been passed without

hearing the parties, yet the position in law is unlikely to change that an alternate remedy is available. Learned Counsel Shri Chandrakant R.Thorat, however, submits that yet he would desire to have hearing before the appellate authority in order to convince that an appeal can be maintainable.

5. In the circumstances, it would be expedient that an opportunity be given to the parties to address themselves on the appeal with respect to its maintainability. As such, the impugned order is set aside, remanding the matter to the Deputy Director of Land Records, Aurangabad, restoring the Appeal filed by the petitioner.

Parties agree to appear before the Deputy Director of Land Records, Aurangabad, on 22nd of January, 2018, doing away with issuance of notice to parties by Deputy Director of Land Records, for hearing.

(SUNIL P. DESHMUKH)
JUDGE

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