

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.2092 OF 2013

Lata C. Kangane .. Petitioner.
v/s.
The Additional/ Divisional Commissioner
Nashik Division, Nashik & Others .. Respondents.

Mr. Tushar Sonawane, for the Petitioner.
Mr. S.D. Rayrikar, AGP, for Respondent Nos.1 and 2.
Ms. Gauri Shah, for Respondent No.4.
Mr. Yogesh Palve, for Respondent No.5.

CORAM: M.S.SANKLECHA, J.
DATE : 20th NOVEMBER, 2017.

P.C:-

This Petition under Article 227 of the Constitution of India takes exception to the order dated 4th December, 2012 passed by the Additional Commissioner, Nashik Division, Nashik. By the impugned order dated 4th December, 2012, the earlier order dated 4th October, 2012 which was passed in favour of the Petitioner was stayed, pending consideration of the Review Application filed by Respondent No.5- Mr. Raosaheb Sakharam Kangane, herein. Thus, the benefit of the order dated 4th October, 2012 which restored the mutation entry No.1550 in favour of the Petitioner, could not be given effect to.

2 The Petitioner's grievance is that, the Review Application filed by Respondent No.5 before the Additional Commissioner, Nashik Division, Nashik, as evident from the order dated 4th December, 2012

proceeded on the basis of it being filed by the Petitioner, on the ground that, the order dated 4th October, 2012 is causing prejudice to her. It is pertinent to note that on the same day, the Additional Commissioner, Nashik Division, Nashik passed an order, staying the order dated 4th October, 2012 till the disposal of the Review Application, without granting any hearing to the Petitioner. Besides, it is contended by the Petitioner that there is no power of Review under the Maharashtra Land Revenue Code, 1966.

3 The State has filed an affidavit dated 3rd November, 2017 of Mr. Jotiba Patil, Additional Commissioner, Nashik. In the affidavit, it is clarified that by mistake, the Petitioner was shown as the Applicant. It further states that the Review Application filed by Respondent No.5 is itself dismissed on 3rd December, 2014, for non-prosecution. Therefore, the order dated 4th October, 2012 is now fully effective.

4 In the above view, it is submitted by Mr. Rayrikar, learned AGP that nothing survives in the Petition.

5 Therefore, while disposing of Petition as infructuous, it is clarified that the order of 4th October, 2012 passed by the Additional Commissioner, Nashik Division, Nashik, would not be varied by him, in these proceedings, without giving the Petitioner's an opportunity of hearing.

6 **Writ Petition disposed of as infructuous.** No order as to costs.

(M.S.SANKLECHA,J.)