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

WRIT PETITION NO. 9243 OF 2016

Sandip Maruti Akulwar

...Petitioner

Vs.

State of Maharashtra & Ors.

...Respondents

Mr. Manoj M. Kadam, Advocate for the Petitioner

Ms. Aparna Vhatkar, AGP for Respondent NO.1

Mr. S.G. Karandikar, Advocate for Respondent Nos. 2 to 6

CORAM : M.S. KARNIK, J.

DATED : 25TH JANUARY, 2017

P.C. :

After arguing the matter at some length the learned Counsel for the Petitioner submits that the order passed by the Tahasildar and A.L.T. dated 9th October, 2013 may be treated as an order passed under section 36(2) of the Maharashtra Land Revenue Code (hereinafter referred as MLRC). He prays that as such the impugned order by the Maharashtra Revenue Tribunal, would be an order without jurisdiction as against the order passed under section 36(2) of the MLRC an appeal would not lie before the Maharashtra Revenue Tribunal (hereinafter referred to as MRT for short).

2. Mr. Karandikar, learned Counsel for the Respondent does not dispute this position. Consequently the order impugned of the MRT is set aside as the Petitioner submits that the appeal itself was not maintainable. He further states that the appeal filed before the MRT may be treated as withdrawn.

3. He, however submits that against the order dated 9th October, 2013 passed by the Tahasildar he may be allowed to pursue his remedies under the Maharashtra Land Revenue Code as permissible.

4. Mr. Karandikar, learned Counsel on behalf of Respondent fairly submits that in case such an appeal is filed by the Petitioner against the order dated 9th October, 2013 passed under Section 36(2) of the MLRC before the Appellate / Revisional authority, the same may be dealt with on its own merits. Hence the following order:

O R D E R

1. Consequent to the statement made by the learned

Counsel for the Petitioner that he is withdrawing the appeal before MRT, the impugned order passed by MRT does not survive.

2. Liberty is granted to the Petitioner to challenge the order 9th October, 2013 before the appropriate appellate authority under the Maharashtra Land Revenue Code as permissible. If such an appeal is filed the same may be dealt with in its own merits.
3. I may not be understood to have expressed any opinion on the merits of the matter. All contentions on merits are kept open.
4. Writ Petition is disposed of.

(M.S. KARNIK, J.)