

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5460 OF 2016**

Ajay Sudhakar Gaikwad

..Petitioner

v/s.

The State of Maharashtra & Ors.

..Respondents

Mr. Abhay Singh Shinde i/b. Rahul S. Kulkarni for the Petitioner
Ms. Aparna Vhatkar, AGP for the Respondent No.1.

**CORAM : A.S.OKA & ANUJA PRABHUDESSAI, JJ.
DATED : 9TH FEBRUARY, 2017**

P.C.

1. Heard the learned Counsel appearing for the petitioner. According to the case of the petitioner, the order of allotment of the land subject matter of this petition was made in favour of his father by an Order dated 28th June, 1976. It is claimed that an agreement was accordingly executed in Form 3 by his father on 20th November, 1981. After the demise of his father, the present petitioner and the respondent no.4 made an application to the Tahsildar praying for

handing over the possession of the said land to them. It was pointed out by the petitioner that necessary amount has been deposited by his father. By Order dated 9th July, 2014 the Tahsildar rejected the application made by the petitioner.

2. Being aggrieved by the said order, the petitioner preferred an appeal under Section 247 of the Maharashtra Land Revenue Code, 1966. The said appeal has been dismissed by the Sub Divisional officer by his order dated 10th September, 2015.

3. The prayer in this petition is for issuing a writ of mandamus directing the respondents to allot the said land to the petitioner, which was already allotted to their father.

4. The petitioner had taken recourse to the remedy under the Maharashtra Land Revenue Code, 1966. Further appeal and two revision applications are available to the petitioner by way of statutory remedy against the Order of the Sub Divisional Officer.

5. Therefore, we decline to entertain this petition under Article 226 of the Constitution of India. However, a statutory remedy of the petitioner to challenge the Order dated 10th September, 2015 passed by the Sub Divisional Officer is kept open. The petition is

accordingly disposed of. If the petitioner avails the remedy as provided in the statute, the concerned Appellate Authority is bound to note that the present petition was filed on 2nd March, 2016, which remained pending in this Court till today. All contentions on merits are kept open.

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)