

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

WRIT PETITION (L) NO. 14802 OF 2018

Shri. Vittal Maruti Veer
(Since Decd.) Through his Lrs.
And Representatives & Ors.

.. Petitioners

Vs.

Shri. Pandurang Kerba Veer
(Since Decd.) Through his Lrs.
And Representatives & Ors.

...Respondents

...

Mr. Pravartak Pathak I/b Balasaheb Deshmukh for Petitioner.
Mr. Prasad P. Kulkarni and Mr. Chinmay B. Pandit for Respondent
Nos. 5A to 5G.
Mr. S.H. Kankal-AGP for State.

...

CORAM : V .L. ACHLIYA, J.
(Vacation Court)

DATE : MAY 17, 2018.

P.C. :-

1. The Petitioner has challenged the order dated 02.04.2018 passed by Sub Divisional Officer, Wai, Dist. Satara with contention that order has been passed at the instance of minister for water resources and water conservation state of Maharashtra. It is contended that the subject matter relating to Mutation Entry exclusively falls within the domain of revenue department. However, pursuant to the direction given by Minister of Water Resources and Water Conservation and

Parliamentary Affairs vide letter dated 25.02.2018 the Sub Divisional Officer, Wai directed to conduct the enquiry and also passed impugned order without hearing the Petitioners. It is pointed out that acting upon the direction of the minister, the Sub Divisional Officer not only passed order but also submitted report in compliance of letter dated 13.03.2018 to the minister concerns who is also Guardian Minister of District Satara. In short, it is the contention of Petitioners that the impugned order is passed at the behest of said Minister.

3. Learned Counsel for the Petitioner invited attention to the decision of this Court in the case of ***Smt. Savitri Chandrakesh Pal Vs. State of Maharashtra and Ors***¹. Wherein this Court has issued procedural guidelines to be followed by the quasi judicial authority.

4. Learned AGP as well as the Counsel representing the Respondent No. 5 opposed the Petition with a contention that the Petition is not maintainable, as there an alternate remedy available to Petitioner to challenge the impugned order by filing appeal before Additional District Collector. Learned Counsel for the Respondent No. 5 further submits that the earlier order dated 19.01.2018 passed by Sub Divisional Officer in respect of same subject matter has been challenged in appeal before the Additional Collector, Satara and in said appeal vide

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order dated 26.04.2018 the Additional Collector has passed order to maintain status-quo.

5. In my view though the alternative remedy is available to the Petitioner to challenge the order passed by the Sub Divisional Office, Wai. Still it is a fit case wherein this Court can entertain this Petition in exercise of its inherent jurisdiction under Article 226 of the Constitution of India for the sole reason that the officer concern has acted totally in disregard of provisions of law, principles of natural justice and acted in gross violation of fundamental right of Petitioners. It was not expected on the part of the Sub Divisional Officer to have treated the letter of Minister as an order to conduct inquiry and pass order in the capacity of a quasi-judicial authority. There was no proceeding pending before the Sub Divisional Officer to pass such order.

6. It appears that order has been passed only on the basis of communication received from the said Minister. The dispute in respect of Mutation Entry amongst the Petitioners and the Respondent No. 5 is subjudice before Additional Collector and the earlier order dated 19.01.2018 passed by the Sub Divisional Officer, Wai has been challenged in appeal before Additional District Collector, Satara who has passed order to maintain status-quo. In this view passing of order

dated 02.04.2018 totally uncalled and unwarranted on the part of Sub Divisional Officer, wai, Dist. Satara. In that view the order deserves to be quashed. Accordingly, the impugned order is set aside. The Additional Collector, Satara is directed to expedite the hearing of the appeal pending before it and decide the same as expeditiously as possible and preferably within six months from the date of communication of the order.

7. Learned Counsel for the Respondent undertakes to file Vakalatnama within eight days.

8. Petition stands allowed and disposed of in above terms.

(V. L. ACHLIYA, J.)