

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1498 OF 2014

Namdeo Hanumant Chondhe	 Petitioner
Vs.	
State of Maharashtra & Others	 Respondents

Mr. Sachin S. Punde for the Petitioner.
Mr. B.V. Samant, AGP, for Respondent Nos.1 to 5.
Mr. Saurabh Butala for Respondent No.6.

CORAM: S.C. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.

DATE : MARCH 01, 2018

P.C:

1. After this petition was argued for some time, during the course of the arguments, we invited the attention of Mr. Punde, learned Advocate appearing for the petitioner, to a specific provision in the Maharashtra Land Revenue Code, 1966 ("the Code" for short). The specific power and to be found in Section 257 of the Code, by sub-section (1) enables the State Government and the Revenue or Survey Officer, not inferior in

the rank, set out in sub-section (1), in the respective Departments, to call for and examine the record of any inquiry or the proceedings of any subordinate Revenue or Survey Officer, for the purpose of satisfying itself or himself, as the case may be, as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such Officer. There have been extensive amendments carried out to the said provision as well.

2. When such is the sweep of the power of the State Government and in this case even the Divisional Commissioner, who is higher in rank than that of the Collector of District, then, the remedy is not only alternate but equally efficacious. In our view, it is complete as well. Mr. Punde, therefore, sought instructions from the petitioner, who is present in Court, and stated that leave be granted to withdraw this petition with liberty to avail of the remedy provided by Section 257 of the Code.

3. We allow the writ petition to be withdrawn with

liberty as prayed but clarify that despite an affidavit in reply having been filed by respondent No.3, Assistant Director of Town Planning, Pune Branch, Pune, the State Government or the authority contemplated by Section 257 and higher in rank than of the Collector of the District shall consider and decide the matter uninfluenced by the contents of this affidavit. The matter shall be decided on its own merits and in accordance with law. The writ petition is disposed of by clarifying that this Court has not expressed any opinion on the rival contentions. We equally clarify that if any appellate remedy can be availed of in terms of the Code, particularly Section 245 thereof, that is also a remedy available to the petitioner.

(PRAKASH D. NAIK, J.)

(S.C. DHARMADHIKARI, J.)