

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

**WRIT PETITION NO.5382 OF 2016**

Bhupendra Shantilal Shah & Ors. .. Petitioners  
Vs.  
The Dy. Collector, Nashik & Ors. .. Respondents

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Mr.Tushar N. Sonawane for the petitioners.  
Mr.S.D.Rayrikar, AGP for the respondent nos.1 & 2-State.  
Mr.Pradeep J. Thorat for the respondent no.3.

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**CORAM : R.D. DHANUKA, J.**  
**DATE : 21<sup>st</sup> February 2018**

**P.C.:**

. Mr.Sonawane, learned counsel appearing for the petitioners states that the petitioners have filed affidavit of service in so far as the respondent no.4 is concerned. However, the petitioners had inadvertently served the petitioner no.4 and not the respondent no.4. He states that the petitioners want to withdraw this affidavit. Statement is accepted. Office is directed to return the said affidavit to the petitioners.

2. Learned counsel for the petitioners on instructions seeks liberty to withdraw the proceedings filed by them before Sub-Divisional Officer and also before the Collector whose orders are impugned in this petition with liberty to file an appeal against the order of the Circle Officer under Section 247 of the Maharashtra Land Revenue Code, 1966 before the Sub-Divisional Officer.

3. Mr.Thorat, learned counsel appearing for the respondent no.3 states that his client has no objection if the petitioners are allowed to withdraw this proceeding with liberty to file an appeal before the Sub-

Divisional Officer by keeping all his contentions open on merits of the order passed by the Sub-Divisional Officer.

4. In view of withdrawal of the proceedings before the Sub-Divisional Officer and the Collector, the impugned orders passed by those two authorities in those two applications stand set aside by keeping all the contentions of the respondent no.3 on merits of the order passed by the Circle Officer and also on the issue of limitation. The petitioners would be at liberty to challenge the order of the Circle Officer on merits subject to all the contentions of the respondent no.3 open including the issue of limitation.

5. Learned counsel for the respondent no.3 states that his client would file an appeal against the order of the Circle Officer under Section 247 of the Maharashtra Land Revenue Code, 1966 before the Sub-Divisional Officer within a period of four weeks from today. Statement is accepted.

6. It is made clear that the Sub-Divisional Officer shall decide the appeal against the order of the Circle Officer without being influenced by the orders passed by the Sub-Divisional Officer and the learned Collector whose orders are impugned in this petition. After considering the contentions of both the parties, the said appeal shall be heard in accordance with law and on its own merits. The petition is disposed of in aforesaid terms. No order as to costs. The parties as well as the authorities to act on the authenticated copy of this order.

***R.D. DHANUKA, J.***