

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

WRIT PETITION NO.7405 OF 2017

Shree Audumber CHS Limited

...Petitioner

vs.

The State of Maharashtra & Ors.

...Respondents

Mr. S. C. Naidu a/w Mr. V. M. Parkar i/b Mr. M. D. Nagle for the
Petitioner.

Mr. P. G. Sawant, AGP for the Respondent/State.

CORAM : A.S. OKA &

A. M. DHAVAL, JJ.

DATE : 31st AUGUST, 2018

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P.C.:

. Heard learned counsel for the Petitioner. The grievance in this petition is about the entry made in the revenue records maintained under the Rules framed under the Maharashtra Land Revenue Code, 1966. It is not in dispute that the petitioner has a remedy of challenging the entry by preferring an appeal under the Maharashtra Land Revenue Code, 1966.

2. The learned counsel for the Petitioner invited my attention to the affidavit in reply of Shri Sunil Raghunath Wani, City Survey Officer, Thane. He pointed out that on one hand, a contention is raised in the reply that an alternate remedy under section 247 of the said Code is available to the petitioner and on the other hand, it is contended that relevant records is not available as the entry has been made way back in the year 1979.

3. The case made out in the petition is that the Petitioner was not

aware about the said entry of the year 1979 till the year 2016. If the petitioner makes out a case for condonation of delay in preferring an appeal and the delay is condoned, it is obvious that the State will have to take steps to reconstruct the missing record.

3. We make it clear that the direction for reconstruction of the missing record of the year 1979 can be sought only after the petitioner makes out a case for condonation of delay. Apart from the alternate remedy under the said Code, the petitioner always has a remedy to approach the Civil Court and establish its title.

4. Subject to what is observed above, we decline to entertain this petition under Article 226 of the Constitution of India. If the remedy is availed, the concerned authority is bound to note that this petition was filed on 13th October 2013 and that the same remained pending till today.

(A. M. DHAVALA, J.)

(A. S. OKA, J.)