

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO. 9449 OF 2019 WITH
WRIT PETITION NO. 9643 OF 2019**

**KISAN TUKARAM SURYAWANSHI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for the Petitioners : Shri G. J. Kore
AGP for Respondent Nos. 1 to 3 : Shri S.R. Yadav - Lonikar
Advocate for Respondent Nos. 4 and 5 : Shri R. L. Kute
(R.4 & 6 in WP No. 9643/2019)

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 11th SEPTEMBER, 2019.

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PER COURT :

1. These matters were not on board. Shri Kute learned Advocate expressed a grave urgency and hence the matters were taken on the production board. Shri Kute has intimated the learned Advocate for the petitioners.

2. On 02/08/2019, this Court had passed an order and had stayed the order of the Additional Collector dated 13/05/2019.

3. Shri Kute makes a grievance that after the order of the Additional Collector was stayed, the Tahsildar is now proceeding to implement his order dated 30/06/2018 passed

under Section 5(2) of the Mamlatdars Courts Act, 1906.

4. I find that the Tahsildar has been over indulgent. When this Court is deciding the petition and ad interim orders are passed, the Tahsildar should have maintained status-quo.

5. Considering the above, until all the parties are served and the pleading are complete, the impugned order as well as the order of the Tahsildar, shall stand stayed.

6. Shri Kute learned Advocate submits on instructions that as he is appearing even for respondent Nos. 4 and 5, service is complete. He further submits on instructions that a proper revision under Section 23(2) of the Mamlatdars Courts Act would be filed before the revisional authority within three weeks from today as, the respondents had invoked inapplicable provisions under the M.L.R. Code 1966.

7. The learned AGP submits that the revisional authority could be the same Additional District Collector, Osmanabad or the SDO/Deputy Collector, Omerga. He submits that the impugned order could not have been passed under Section 247 of the MLR Code. He further adds that probably, it is out of

inadvertence that Section 247 may have been mentioned.

8. The record reveals that the revision was filed under Section 257 of the MLR Code.

9. In view of the above, both these petitions are partly allowed and the impugned orders are set aside only for the reason that the authority has entertained a revision filed by the respondents under Section 257 of the MLR Code and has passed an order by mentioning Section 247 of the MLR Code. The revision petitioners in both these petitions are at liberty to file fresh revision applications under Section 23(2) before the revisional authority, on or before 30/09/2019. The petitioners herein are at liberty to appear in the said proceedings suo-motu. If not, the revisional authority would issue notices to the respondents. Until then, the parties to the litigation shall maintain status-quo. Considering the urgency involved, the revisional authority would decide the said proceedings as expeditiously as possible and in any case on or before 30/11/2019.

(RAVINDRA V. GHUGE, J.)

shp/-