

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

WRIT PETITION NO. 9844 OF 2019

Kala Arvind Jain and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri S. S. Thombre, Advocate for Petitioners.

Shri A. R. Kale, A.G.P. for Respondent Nos. 1, 4 and 5.

**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 07TH AUGUST, 2019.

FINAL ORDER :

. The learned Assistant Government Pleader for respondent Nos. 1, 4 and 5 raises a preliminary objection that petitioners have remedy of appeal.

2. Mr. Thombre, the learned advocate for petitioners submits that, it is under pressure of Commissioner and Hon'ble Minister the orders are passed. Filing of appeal would be an exercise in futility. Suit filed by the petitioners bearing R.C.S. No. 1390 of 2001 is dismissed under judgment and order dated 19th October, 2013. The proceedings before the Tahsildar were not maintainable. In view of the aforesaid aspects, this Court can

entertain the writ petition.

2. In the impugned order the Sub Divisional Officer has observed that, the petitioner can prefer an appeal U/Sec. 247 of the Maharashtra Land Revenue Code. In appeal, naturally, appellate authority would consider the decree passed by the Civil Court in R.C.S. No. 1390 of 2001 dated 19th October, 2013 and its applicability will also be considered. All contentions raised by the petitioners and all the parties to the appeal, including contention of maintainability of proceedings before the Tahsildar, factual and legal position as would be pointed out, would be considered by the appellate authority on its own merits.

3. The writ petition accordingly is disposed of with liberty to the petitioners to avail alternate remedy. All contentions are kept open.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

bsb/August 19