

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

929 WRIT PETITION NO.65 OF 2014

UMAKANT BALI MASE AND ANOTHER
VERSUS
DIGAMBAR PRABHAKAR PATIL AND OTHERS

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Advocate for Petitioners : Mr. P.S. Chavan
Advocate for Respondent 1 to 4: Mr. P.K. Deshmukh

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CORAM : T.V. NALAWADE, J.
DATED : 14/02/2019.

ORDER :

1. The proceeding is filed for setting aside the order dated 31.7.2013 passed by the learned learned Deputy Collector (Land Reforms) Osmanabad in Tenancy Appeal No.443/2012.

2. It appears that no such order was made, but there is application filed by present petitioners before Deputy Collector for deciding the tenability of the appeal itself as preliminary points. The petitioners want to rely on some observations made in the case reported as **2002 (Supp) Bom.C.R. 216 [Bharatilal Hemraj Vs. Kondiba Govinda Jadhav & Ors.]**. On the other hand, the learned counsel for respondents took this Court through the provision of section 19 of Hyderabad Tenancy and Agricultural Lands Act, 1050.

3. The submissions made also show that in the past after rejection of application by Tahsildar the matter was taken in appeal and the previous Deputy Collector has remanded the matter back to Tahsildardar. After that the Tahsildar again rejected the application. The application was filed for cancellation of certificate issued under section 38 of the aforesaid Tenancy Act. In view of these circumstances, the matter can be disposed of by directing the appellate authority to see that the point of tenability is also decided along with merits of the matter while deciding the matter. The appeal is to be disposed of within three months from the date of receipt of this order. The proceeding is disposed of in aforesaid terms. The record is to be sent back immediately.

[T.V. NALAWADE, J.]

ssc/