

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

WRIT PETITION NO.214 OF 2019

PRAKASH NARAYAN BHALEKAR (SUTAR)
VERSUS
ADDITIONAL COMMISSIONER, AURANGABAD DIVISION, AURANGABAD
AND OTHERS.

WITH
CIVIL APPLICATION NO.15168 OF 2019
IN WP/214/2019

SUMAN TUKARAM BHISE
VERSUS
PRAKASH NARAYAN BHALEKAR SUTAR AND OTHERS

...
Advocate for the Petitioner : Shri S.B.Chaudhari
AGP for Respondents 1 to 4 : Shri M.B.Kolpe
Advocate for Respondent 5 : Shri Kolpe Mahendra B.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 20th December, 2019

Per Court:

1 The learned AGP and the learned advocate appearing for respondent No.5 raise an objection that this Writ Petition is not maintainable as the petitioner has a statutory remedy of preferring a second revision with regard to the impugned order delivered by the Additional Divisional Commissioner pertaining to the mutation entry.

2 The Honourable Supreme Court, in *Gurudassing Nawoosing Panjwani vs. State of Maharashtra and others*, 2016 (2) SCC 213 : 2015 (6) Mh.L.J. 915 (SC), has concluded that a second revision is maintainable.

3 The Honourable Supreme Court has recently taken a view, in the matter of *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai vs. Tuticorin Educational Society*, 2019 SCC Online SC 1292 (Civil Appeal No.7764/2019 decided on 03.10.2019), that a statutory remedy available would be a "near total bar" for entertaining a writ petition in the supervisory jurisdiction of this Court. In a recent judgment in *Genpact India Pvt. Ltd. vs. Deputy Commissioner of Income Tax*, 2019 SCC Online SC 1500 (Civil Appeal No.8945/2019 decided on 22.11.2019), the Honourable Supreme Court has concluded that even an admitted petition should be dismissed in the face of the statutory remedy. The jurisdiction of the High Court is barred and a writ petition should not be entertained.

4 In view of the above, this Writ Petition is disposed off with liberty to the petitioner to avail of a statutory remedy as is available in law. Time spent by the petitioner in this Court from 24.12.2018 till the passing of this order, shall be considered as a good ground for condonation of delay.

5 The pending Civil Application does not survive and stands disposed off.

6 Ad-interim protection granted by this Court (Coram : Sunil P. Deshmukh, J.) on 09.01.2019, shall be continued for a further period of six weeks.

7 Needless to state, the status-quo existing with regard to the suit property shall be maintained and the ad-interim protection granted earlier shall not be construed to be a liberty to any litigating party to disturb the other parties' possession.

kps

(RAVINDRA V. GHUGE, J.)