

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

29 WRIT PETITION NO.550 OF 2018

AKBAR IMAM SHAH PATEL
VERSUS
NAGNATH MANAPPA WAGHMARE AND OTHERS

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Advocate for Petitioner : Mr. Chavan P. S.
AGP for Respondents-State : Mr. A.B.Chate.
Advocate for Respondent No.1 : Mr. S.D.Kotkar.

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CORAM : V. K. JADHAV, J.
DATE : 02.12.2019

PER COURT :-

1. The learned counsel for the respondent so also the learned AGP appearing for the State raised a preliminary objection about the maintainability of this Writ Petition. They submit that the alternate, efficacious remedy of filing a Revision before the State Government is available to the petitioner. The learned counsel appearing for respondent No.1 has placed on record the Revision Application preferred by one Satish Dhondiram Chavan, who is the aggrieved person by the same order, before the Minister (Revenue), Mumbai and the said Revision Application is still pending.

2. The learned counsel for the petitioner has vehemently submitted that no hurdle can be put against the exercise of the constitutional powers of the High Court. It is true that the High Court does not ordinarily, in exercise of its discretion, entertain a Special Civil Application under Article 227 of the Constitution, wherein adequate alternative legal remedy is available to the petitioner. However, the High Court, in favour of the petitioner, despite the existence of an alternative legal remedy may exercise the discretion under extraordinary circumstances. In the instant case, one of the persons affected had already approached the Minister against the same order and also on merits I do not think that this is an extraordinary case wherein this discretion can be used to entertain the Writ Petition despite the alternate legal remedy available to the petitioner.

3. In view of the same, the Writ Petition is disposed off by granting liberty to the petitioner to exhaust the alternate, efficacious remedy so available in law and in case if such remedy is exhausted within a period of eight (8) weeks, the time spent on pursuing this Writ Petition shall be considered by

the Revisional Authority. Furthermore, till exhausting the alternate remedy, the interim protection granted to the petitioner, which is in force for last two years, shall remain continue.

(V. K. JADHAV, J.)

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vmk/-