

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2868 OF 2019

Shri. Punja Bhau Shirsath & Ors.

...Petitioners

V/s.

Prabhakar Baburao Shirsath & Ors.

...Respondents

Mr. Sachin Gite, Advocate for the Petitioners.

Mr. S.H. Kankal, AGP for Respondent Nos.4 and 5.

Mr. Pramod Narayan Joshi a/w. Mr. Nikhil Manohar Joshi, Advocate for Respondent Nos.1 and 2.

CORAM : S.S. SHINDE, J.

DATE : 20th MARCH 2019

P.C. :

1. This writ petition takes exception to the order dated 14.03.2018 passed by the learned Deputy Collector (Rehabilitation), Nashik in RCT/Revision/399/2016.

2. The learned counsel appearing for the petitioners submits that the impugned order has been passed by the Revisional Authority without hearing the petitioners and also without referring to the written notes, which were placed on record by the petitioners. It is

submitted that the Revisional Authority has observed that even no written notes are placed on record by the petitioners. However, said observations/finding is contrary to the record in as much as written notes were placed on record. Therefore, he submits that matter may be remitted back to the said authority for denovo consideration.

3. On the other hand, the learned counsel appearing for Respondent Nos.1 to 3 invites attention of this Court to the findings recorded by the aforesaid authority and submits that there were factual errors committed by the Tahsildar, Sinnar while allowing the application of the petitioners. Therefore, it would be appropriate to direct the Tahsildar, Sinnar to reconsider the entire controversy and pass the fresh orders.

4. Keeping in view the submissions made across the bar, this Court is of the opinion that, instead of entering upon the contentions raised on the merits, it would be appropriate to quash and set aside the impugned order and also the order passed by the Tahsildar dated 04.10.2016 since prima facie there appears to be some factual errors committed by the Tahsildar, Sinnar. In the light of the above observations, impugned order as well as order passed by the

Tahsildar, Sinnar, in Vahiwat/SR/10/2016 stands quashed and set aside. The application filed by the petitioners i.e. Vaiwat/SR/2/2010 is restored to its original file. The Tahsildar, Sinnar is directed to consider the said application afresh and decide the same after affording an opportunity of hearing to the affected parties, including private respondents and decide the said application as expeditiously as possible, however, within six months from today. Till the application is decided afresh by the Tahsildar, Sinnar the parties are directed to maintain status-quo as available on today.

5. With the above observations, the writ petition stands disposed of.

(S.S. SHINDE, J.)