

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.6945 OF 2017

Kashinath Gangaram Popalghat Tal Chikhli, Dist. Buldhana

-vs-

The Divisional Commissioner, Amravati Division, Amravati and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri P. S. Khubalkar, Advocate for petitioner.
Smt M. A. Barabde, Assistant Government Pleader for
respondent Nos.1 and 2.
Shri A. A. Naik, Advocate for respondent No.3.

CORAM : A.S.CHANDURKAR, J.

DATE : September 30, 2019

Rule. Heard finally with consent of counsel for the parties.

The petitioner is aggrieved by the order dated 16/06/2017 passed by the Divisional Commissioner, Amravati in proceedings under Section 247 of the Maharashtra Land Revenue Code, 1966. By that order the appeal preferred by the respondent No.3 herein has been allowed. It is the grievance of the petitioner that he was not noticed in the said proceedings and without having any opportunity to contest the said appeal it was decided in his absence. In that regard the petitioner seeks to rely upon the order-sheet with regard to said appeal.

2. It is submitted on behalf of the respondent No.3 that the petitioner was duly noticed in the said proceedings but had chosen to remain absent. Further the manner in which the petitioner got knowledge of those proceedings in absence of alleged notice had not been disclosed in the writ petition.

3. Heard. On 05/04/2019 the learned Assistant Government Pleader was directed to produce records of the said proceedings. Those records have been produced for perusal. It is seen that in those records there is no acknowledgment signed by the petitioner indicating service of notice of the proceedings on him. Further, in the order-sheet it is seen that there are some corrections made but the same have not been countersigned. In the light of this state of affairs, interests of justice would be served by directing fresh consideration of the appeal that was filed by the respondent No.3.

4. Hence on this short ground of lack of opportunity to the petitioner, the order passed on 16/06/2017 by the Divisional Commissioner is set aside. The said proceedings are restored for fresh consideration in accordance with law. To enable said adjudication the parties shall appear before the Divisional Commissioner on 14/10/2019. The appellant is at liberty to place on record additional documents in support of his case. The petitioner is permitted to file his reply along with affidavit.

The appeal shall be decided on its own merits in accordance with law. All points are kept open.

Rule is made absolute in aforesaid terms. No order as to costs.

JUDGE