

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.424 OF 2017

(MAROTI KISAN BITE...VS.. ADDITIONAL COLLECTOR, YAVATMAL & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.R.Agrawal, Adv. h/f. Shri S.V.Sirpurkar, Advocate for Petitioner.
Shri V.P.Maldhure, A.G.P. for Respondent Nos. 1 to 3.
Shri M.P.Kariya, Advocate for Respondent No.4.

CORAM : Z.A.HAQ, J.

DATED : FEBRUARY 18, 2019.

The order passed by the Mamalatdar under Section 5 of the Mamalatdars' Courts Act, 1906 was challenged by the petitioner before Sub-Divisional Officer under Section 247 of the Maharashtra Land Revenue Code, 1966. The learned Sub-Divisional Officer treated it as revision under Section 23 of the Mamalatdars' Courts Act, 1906 and on merits dismissed it. The order passed by the Sub-Divisional Officer was challenged by the petitioner before the Additional Collector under Section 247 of the Maharashtra Land Revenue Code, 1966 in revision which is dismissed by the impugned order.

The learned Advocate appearing for the respondent No.4 and the learned A.G.P. has pointed out that the appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 was not maintainable before the Sub-Divisional Officer and consequently the revision application filed by the petitioner before the Additional Collector was also not maintainable.

In view of the submission made on behalf of the respondents, the learned Advocate for the petitioner on instructions, prayed for permission to withdraw the appeal and revision filed before the Sub-Divisional Officer and Additional Collector with liberty to challenge the order passed by the Mamalatdar by filing revision under Section 23 of the Mamalatdars' Courts Act, 1906.

The prayer made on behalf of the petitioner is justified. Hence, the petitioner is permitted to withdraw the appeal which was filed by him before the Sub-Divisional Officer and the revision which was filed by him before the Additional Collector. Consequently, the orders passed by the Sub-Divisional Officer and the Additional Collector do not survive. The petitioner will be at liberty to challenge the order passed by the Mamalatdar by filing revision under Section 23 of the Mamalatdars' Courts Act, 1906.

The petition is **disposed** in the above terms. In the circumstances, the parties to bear their own costs.

JUDGE