

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

938 WRIT PETITION NO.2397 OF 2018

UTTAM PANDURANG MUNDKAR
VERSUS
SHIVAJI TULSHIRAM MUNDKAR AND OTHERS

Mr.G.D. Kale, Advocate for the petitioner.

Mr.Ravindra Wankhede h/f. Mr.Ajinkya Reddy, Advocate for
respondent Nos.1 to 3.

Mr.R.D. Sanap, AGP for respondent No.4.

CORAM : N.J.JAMADAR, J.

DATE : 16.03.2021

PC :-

01. Heard learned Counsel for the petitioner.

02. The challenge in this petition is to an order passed by the Divisional Commissioner, Aurangabad, in Revision No.659 of 2013 dated 30.11.2017, whereby the Divisional Commissioner set aside the order passed by the Additional Collector, Latur, in Appeal No.2092/ROR/A-84 dated 27.08.2013, as well as the order passed by the Sub-Divisional Officer and Tahsildar certifying the Mutation Entry No.299 dated 18.06.2007. The said mutation entry was cancelled.

03. Evidently, the respondent herein had preferred said Revision Petition No.659 of 2013 against the

judgment and order dated 27.08.2013 in Appeal No.2012/ROR/A-84, preferred by the respondents under section 247 of the Maharashtra Land Revenue Code, 1966, assailing the orders passed by the Sub-Divisional Officer in First Appeal No.2011/ROR/A-103 dated 28.06.2012, by which the challenge to the certification of the Mutation Entry No.299 dated 18.06.2007 was negatived. In the said Revision No.659 of 2013, by the impugned order, the Divisional Commissioner reversed the order passed by the Additional Collector in appeal.

04. The situation is thus governed by sub-section (2) of section 249 of the Code. Section 249 reads as under :-

"249. Appeal against review or revision:

(1) An order passed in review varying or reversing any order shall be appealable in the like manner as an original decision or order.

(2) An order passed in revision varying or reversing any order shall be appealable as if it were an order passed by the revisional authority in appeal."

05. In view of the reversal of the order impugned in revision by the revisional authority, the order impugned herein is appealable before the State Government, under section 249 of the Code.

06. Since the petitioners herein have an alternate efficacious remedy of preferring substantive appeal against the impugned order, it may not be appropriate to exercise extra-ordinary writ jurisdiction.

07. The petition thus stands disposed of with liberty to the petitioners to avail statutory remedy.

08. The time spent in prosecuting this petition may be excluded by the appellate authority while computing the period of limitation.

09. It is clarified that this Court has not considered merits of the petition and all contentions of the parties are kept open for consideration.

10. With the aforesaid clarification, the petition stands disposed of.

[N.J.JAMADAR,J.]