

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**70 WRIT PETITION NO.7047 OF 2021
WITH WP/7156/2021**

**NIVRUTTI LAXMAN JADHAV DIED THR LRS CHANGUNABAI
NIVRUTI JADHAV
VERSUS
THE ADDITIONAL DIVISIONAL COMMISSIONER AND
ANOTHER**

**...
WITH WP/7156/2021**

**NIVRUTTI LAXMAN JADHAV DIED THR LRS CHANGUNABAI
NIVRUTI JADHAV
VERSUS
DATTATRAYA NAGNATH GIRI AND ANOTHER**

**...
Advocate for Petitioners : Shinde S.S.
AGP for Respondent State: P.N.Kutti
Adv. Adgaonkar Ravibhushan P for R/1(in W.P.No.7156/21)
and for R.2 (in W.P.No.7047/21)**

**...
CORAM: MANGESH S PATIL,J.
DATE : 06.12.2021**

P.C.:

Heard the learned advocates of both the sides as also the A.G.P. Rule. At their request, the matters are being disposed of finally at the stage of admission.

2] The petitioners in both these Writ Petitions are aggrieved by the decision of the learned Divisional Commissioner purportedly rendered in a proceeding under Section 257 of the Maharashtra Land Revenue Code.

3] The petitioners are principally aggrieved by the fact that though the revisions were initially dismissed in default and there was a delay in seeking restoration of those revisions, no opportunity of being heard was given to them and straightway the delay was condoned, the revisions were restored and taken up for final hearing. It is the second limb of their stand that after the matters were fixed for final arguments, on the very next date, the matters were closed for passing final orders without extending any opportunity of being heard to the petitioners.

4] The learned advocate Mr.Shinde in tune with the averments in the petitions submits that the orders having been passed without adhering to the principles of natural justice, those are illegal and may be quashed and set aside.

5] The learned advocate Mr.Adgaonkar for the contesting respondents referring to the affidavit in reply, submits that there is alternate and efficacious remedy in the form of a second revision before the State Government against the order of the Divisional Commissioner in view of the provisions of Section 257 (2) of the M.L.R.C.

6] He would further submit that going by the roznama, though the revisions were restored by condoning the delay, on 19/1/2021, the petitioners have not challenged that order and

proceeded to defend the revisions. He would then submit that after restoration revisions were listed on 8/2/2021. Adjournment was sought on behalf of the petitioners and the matters were specifically directed to be listed for final hearing on the next date i.e. 22/2/2021 on which date, they remained absent. It cannot be said that they were not extended an opportunity of being heard in the revisions. There is no breach of principles of natural justice and the petitions may be dismissed.

7] Having considered the rival submissions and having perused the papers, it does appear that the revisions preferred by the contesting respondents were initially dismissed in default but were subsequently restored by condoning the delay. It is also conspicuous that such order regarding restoration by condoning delay was passed, without giving opportunity of being heard to the petitioners. But then, even in that eventuality the petitioners had failed to challenge that order regarding condonation of delay and restoration of the revisions. They not only suffered the order but even sought an adjournment for final hearing of the revisions. It clearly shows that they are not intending to challenge that part of the order.

8] However, as far as the final hearing of the revisions is concerned, in one day the matters were fixed for final hearing and in the absence of the petitioners the impugned orders allowing the revisions were passed. It is apparent that no

sufficient opportunity of being heard was extended to the petitioners. If the respondents were remiss in prosecuting the revisions which were dismissed in default and even there was a delay in getting those restored, one cannot comprehend as to why some opportunity could not have been extended to the petitioners to advance the final arguments. It is therefore, quite apparent that the impugned orders have been passed without adherence to the principles of natural justice. Precisely for this reason irrespective of the fact that there is an alternate remedy in the form of second revision available before the State Government, this Court can invoke writ jurisdiction.

9] The Writ Petitions are allowed. The Rule is made absolute. The impugned orders are quashed and set aside. The parties shall now appear before the Divisional Commissioner on **20/12/2021** and there shall be no need for the learned Divisional Commissioner to direct any notices to be issued to them.

10] The learned Divisional Commissioner shall make every endeavour to decide the revisions afresh in the light of the above observations, as early as possible and in any event, within a period of three weeks from the date of appearance of the parties.

[MANGESH S. PATIL,J.]