

Vidya Amin

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 5303 OF 2021**

Shantabai Madhav Yadav (Decd.),  
through LRs. Kisan Madhav Yadav & Ors.

**... Petitioners**

**V/s.**

State of Maharashtra, through the  
Dept. of Revenue & Ors.

**... Respondents**

Ms. Sanjukta Dey-Yende for the petitioners.

Mr. V.S. Gokhale, 'B' Panel Counsel for the State/respondent nos. 1  
to 5.

Mr. S.C. Wakankar for respondent no. 6.

**CORAM : G.S.KULKARNI, J.  
DATE : 22 November, 2021**

**P.C.:**

1. Heard Ms. Dey-Yende, learned counsel for the petitioners, Mr. Gokhale, learned counsel for respondent nos. 1 to 5 and Mr. Wakankar, learned counsel for respondent no. 6.

2. The challenge in this petition is to an order dated 24 June, 2021 passed by the Sub-Divisional Officer, Haveli Division, Pune whereby while adjourning the hearing of the appeal interalia filed by respondent no. 6, an ad-interim order has been passed observing that to avoid further complications, the impugned order passed by the Tahsildar be stayed. The impugned order also records that the appeal is fixed for hearing on 15 July, 2021.

3. The grievance of the petitioners is that they had moved an application on 17 June, 2021 challenging the locus of appellants to file an appeal in question. It is submitted by learned counsel for the petitioners that such application has not been considered in passing the impugned order.

4. In the above circumstances, in my opinion, this Court is not required to examine the merits of the petitioners' contention, as the appeal itself is pending before the Sub-Divisional Officer. The grievance of the petitioners that the petitioners' application dated 17 June, 2021 is not decided, can also be taken care of by directing the Appellate Authority that as the appeal itself is being taken up for hearing, the application of the petitioners raising objection to the locus of the appellants to file appeal be also gone into and be decided in accordance with law. Hence, in my opinion, no interference is called for at this stage of the proceedings. The Appellate Authority is accordingly directed to consider the application dated 17 June, 2021 filed on behalf of the petitioners and decide the same in adjudicating the appeal as filed by the respondents/appellants. All contentions of the parties in that regard are expressly kept open.

5. At this stage, it is informed by learned counsel for the respondents/appellants that the appeal has been fixed for hearing on 25 November, 2021 and it is likely to be adjourned, as the advocate representing respondent no. 6/appellant is infected by Covid.

6. The petition is accordingly disposed of. No costs.

**(G.S.KULKARNI, J.)**