

DDR

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

WRIT PETITION NO. 6699 OF 2019

MANIKRAO GANPAT BARDKAR	..PETITIONER
VS.	
THE STATE OF MAHARASHTRA & ORS.	..RESPONDENTS

Mr. Vaibhav Ugle for the petitioner.
Mr. S.L. Babar, AGP for respondent Nos. 1 to 3.
Ms. Manisha A. Devkar for respondent No.4.

CORAM : M.S.KARNIK, J.
DATE : APRIL 1, 2021

P.C.

Heard learned counsel for the petitioner.

2. It is the contention of learned counsel for the petitioner that the respondent No.4 filed an appeal before the District Superintendent of Land Records ('DSLRL' for short) after a delay of 45 years. The proceeding is filed under the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 for rectification of the area. It is the contention of learned counsel for the petitioner that at such a belated stage the appeal could not have been filed. He submits that the DSLRL was in error in condoning the delay. Against the said order condoning the delay the petitioner filed an appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as 'the Code' for short) before the Deputy Director of Land Records ('DDLRL' for short). The DDLRL by the impugned order observed that the appeal

under Section 247 of the Code is not maintainable and the remedy for the petitioner is to file revision before the State Government.

3. To support his contentions learned counsel for the petitioner relies upon the decision of this Court in the case of **Vishwanath S/o Balawant Shingnapurkar vs. Yashwant s/o. Harishchandra Umale & anr.**¹

4. In my opinion, considering the provisions of Section 247 and Section 257 of the Code, against the order passed by the DSLR condoning the delay, the petitioner has a remedy of filing a revision before the DDLR. The petitioner has already filed an appeal which is held to be not maintainable. Liberty to convert the appeal before DDLR to a revision. Consequential amendment to be carried out.

5. In this view of the matter, the matter is remitted back to the DDLR. The appeal to be treated as the revision under Section 257 of the Code and heard on its own merits.

6. The parties to co-operate. The parties to appear before the DDLR on 21/4/2021, at 11.00 a.m. when the further schedule may be fixed.

7. The revision to be heard expeditiously and to be decided on its own merits and in accordance with law without being influenced

¹ Writ Petition No.5725/2015 decided on 1/2/2017.

by any observations made by me in this order.

8. All contentions are kept open including the contention that the DSLR has no jurisdiction to entertain the appeal.

9. The Writ Petition is disposed of.

(M.S.KARNIK, J.)