

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

WRIT PETITION NO.13082 OF 2017

Jitendra Ramsagar Rai

..... Petitioner

Vs.

The State of Maharashtra and Ors.

..... Respondents

Mr.S.P.Kanuga a/w Ms.Sapna Nath with Ms.Poonam P.
Bhosale for the Petitioner

Mr.S.S.Panchpor, A.G.P. for the State

**CORAM: K.K.TATED &
RIYAZ I. CHAGLA, JJ.**

DATED : MARCH 31, 2021

P.C.

. Heard.

2. By this Writ Petition, under Article 226 of the Constitution of India, Petitioner is challenging the order dated 18.03.2017 passed by the Deputy Conservator of Forests, Nashik rejecting Petitioner's Application for removing the trees from the land bearing Survey No.37 Gat No.229(B), Area admeasuring 118.14 Hector at Barhe, Taluka Surgana, District Nashik.

3. The learned A.G.P. for the Respondent State raised preliminary objection that in the present proceeding, Appeal is maintainable before the Collector as per section

3(2) of the Maharashtra Felling of Trees Regulation Act, 1964 against the impugned order. Section 3(2) of the reads thus :

“(2) Any person aggrieved by an order of the [Tree Officer] refusing to grant permission under [sub-section (1B)] may, within thirty days of the receipt of such order, appeal to the Collector. Subject to such rules of procedure as may be prescribed, the Collector may, after giving such person a reasonable opportunity of being heard, pass such order on the appeal as he thinks just and proper.”

4. At this stage, the learned counsel for the Petitioner submits that Petitioner may be permitted to withdraw the present Writ Petition with liberty to file appropriate Appeal before the appellate authority. He further submits that if there is a delay, appellate authority be directed to decide their Application for condonation of delay on its own merits considering the fact that present petition was pending before this Court for last more than four years.

5. The learned counsel for the Petitioner filed Application dated 31.03.2021 for withdrawal of the petition with liberty to file appropriate proceeding. Same is taken on record and marked 'X' for identification. Same is accepted.

6. Writ Petition stands disposed of as withdrawn with liberty to file appropriate Appeal before the Collector as per the Maharashtra Felling of Trees Regulation Act, 1964.

7. If Application for condonation of delay is filed, appellate authority to decide their Application for condonation of delay on its own merits, considering the fact that Petition was pending before this Court for more than four years.

8. No order as to costs.

(RIYAZ I. CHAGLA, J.)

(K.K.TATED, J.)