

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

WRIT PETITION NO.4765/2016
Shri Kishan s/o Hiralal Motwani

..VS..

The State of Mah., thr. its Principal Secretary, Revenue and Forests
Department, Mantralaya, Mumbai 400 032 and ors

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

.....
Shri K.C.Deogade, Counsel for the Petitioner.
Shri M.K.Kulkarni, Counsel for Respondent No.4.
Mrs.Mrunal Barabde, AGP for respondent Nos.1 to 3.

CORAM : V.M.DESHPANDE J.
DATED : JANUARY 15, 2021.

1. Heard learned counsel Shri K.C.Deogade for the petitioner, learned counsel Shri M.K.Kulkarni for respondent No.4, and learned Assistant Government Pleader Mrs.Mrunal Barabde for respondent Nos.1 to 3.

2. By this writ petition, the petitioner is challenging order dated 15.7.2016 passed by the Additional Commissioner, Nagpur Division, Nagpur in appeal No.06/MNL 37/2014-15 and order passed by the Collector, Gadchiroli dated 29.4.2015.

3. During course of submissions, learned counsel Shri M.K.Kulkarni for respondent No.4 invited my attention to observations made by this Court (Coram : A.S.Chandurkar, J.) in Writ Petition No.5793/2015 which was filed by the petitioner himself challenging order passed

.....2/-

by the Collector. In paragraph No.3 of the said writ petition, it was observed by the Court that there is an alternate remedy of filing of appeal before the Divisional Commissioner under Rule 82(1) of the said Rules. Under Rule 82(2) of the said Rules, in case any order is passed by the Divisional Commissioner, Appellate Authority would be State Government.

4. On previous occasion, the matter was remanded back by the Court because order impugned was not having any reason. Therefore, the matter was remanded to the Additional Commissioner, Nagpur Division, Nagpur. After the remand, order dated 15.7.2016 impugned in this writ petition is passed.

5. Perusal of order dated 15.7.2016 impugned in this writ petition shows that the Additional Commissioner, Nagpur Division, Nagpur has supplemented reasons. Whether those reasons are adequate or not can be decided only in the appeal.

6. At this stage, when this Court is not granting any relief, learned counsel Shri K.C.Deogade for the petitioner submitted that permission be granted to him to withdraw the writ petition with liberty to the petitioner to file a statutory appeal.

The prayer is accepted.

7. The writ petition is disposed of with liberty to the petitioner to file the statutory appeal before the Appellate Authority within a period of fifteen days from

today. If within the stipulated period the appeal is filed and if it is accompanied by application for condonation of delay, it is expected from the Appellate Authority to consider the said application favourably looking to the pendency of writ petition before this Court.

8. It is to be noted here that in pursuance of order passed by this Court on 3.1.2020, the petitioner has deposited 50% amount i.e. Rs.2,87,500/- in this Court. The said amount shall remain with Registry and order of refund will be passed only after decision of the appeal before the Appellate Authority.

JUDGE

!! BRW !!

...../-