

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

WRIT PETITION NO.7749 OF 2017

RAJARAM SAKHARAM DHOPATE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Shri Deshpande Amit S.
AGP for Respondents 1 and 2 : Shri PG. Borade
Advocate for Respondents 3 to 5 : Shri G.J. Kore

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CORAM: SMT. BHARATI H. DANGRE, J.

DATE :- 11th January, 2022

Per Court:

1. The learned counsel for respondent Nos.3, 4 and 5 fairly concede to the objection raised by the learned counsel for the petitioner, resultantly I refrain myself from adjudicating upon merits of the matter.

Without going into unnecessary details, it can be noted that respondent Nos.3 to 5 instituted an appeal by invoking Section 247 of the Maharashtra Land Revenue Code, 1966 (for short “the MLRC”) challenging an order passed under the provisions of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947. Pertinent to note that, Section 247 of the MLRC is the provision for an appeal being preferred against the orders passed by the Revenue Officer specified in Schedule-E appended to the MLRC and the District

Superintendent of Land Records is not an officer/ authority covered under Section 247 of the MLRC i.e. Schedule-E. The remedy for challenging the consolidation is prescribed in the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 itself and it would lie to the Settlement Commissioner. This position not being in dispute, the impugned order is an order without jurisdiction and is liable to be set aside on that ground. I need not delve into the merits of the matter in respect of the non-est order.

2. In the wake of the above, necessarily the impugned order dated 09.01.2017 passed by the District Superintendent of Land Records, Latur by assuming jurisdiction under Section 247 of the MLRC, is quashed and set aside, while allowing the Writ Petition. However, at the same time, the respondents are at liberty to invoke appropriate proceedings for assailing the impugned order, provided it is permissible under law and it is within limitation. The Writ Petition is, accordingly, allowed.