

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

930 WRIT PETITION NO.9944 OF 2021

**SAMBHAJI SHIVAJI RAJEBHOSALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Mr. Shaikh Mazhar A. Jahagirdar, Advocate for Petitioners
Mr. S.B. Pulkundwar, AGP for Respondent – State
Mr. V.D. Hon, Senior Advocate h/f. Mr. A.V. Hon, Advocate for
Respondent No.6
Mr. S.P. Salgar, advocate h/f. Mr. N.V. Gaware,
Advocate for Respondent No.7

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CORAM : SANDEEP V. MARNE, J.

DATE : 18-11-2022

PER COURT :

. The petitioners filed application under Section 106 of the Maharashtra Land Revenue Code, 1966 (hereinafter referred to as the 'Code') before the Collector for area correction. It appears that the Collector had called for report of the District Superintendent of Land Records, Ahmednagar vide letter dated 04.01.2006. The District Superintendent of Land Records had in turn forwarded the proceedings to the Taluka Inspector of Land Records, who has apparently conducted measurement of land bearing C.T.S. No.1072. While such proceedings filed by petitioners under Section 106 of the Code were pending and were to still reach its logical end, the

petitioners simultaneously initiated proceedings under Section 245 and 247 of the Code before the District Superintendent of Land Records, Ahmednagar.

2. The District Superintendent of Land Records passed order dated 30.11.2017 calling for report of Deputy Superintendent of Land Records, Karjat. The District Superintendent of Land Records thereafter *suo moto* revised his order dated 30.11.2017 and passed a fresh order dated 14.12.2017 and thereby disposed of the petitioners' application. He gave further direction to the Deputy Superintendent of Land Records, Karjat to carry out area correction.

3. An appeal came to be filed by respondent nos.6 and 7 before Deputy Director of Land Records, Nashik who was pleased to set aside both the orders of District Superintendent of Land Records dated 30.11.2017 and 14.12.2017. The Hon'ble Minister has confirmed order of Deputy Director of Land Records vide order dated 28.04.2021.

4. It must be observed at the outset that the District Superintendent of Land Records committed a gross error in *suo moto* revising his order dated 30.11.2017. He has no jurisdiction to do so. Therefore his orders have been rightly set aside by the

Deputy Director of Land Records. There is no merit in the present petition. However, it is not that the petitioners are entirely without remedy. As observed herein above, the proceedings initiated by the petitioners under Section 106 of the Code vide application dated 20.12.2005 are yet to be concluded. Measurement in pursuance of the said application has been carried out and the District Superintendent of Land Records was expected to submit a report to the Collector after conduct of such measurement. It would be open to petitioner to pursue the said application dated 20.12.2005. Respondent nos.6 and 7 have raised objections to the maintainability of such proceedings on both grounds of jurisdiction as well as limitation. Petitioner also raised objection of locus of respondent nos.6 and 7. All the issues in that regard are left open.

5. It is expected that respondent - District Superintendent of Land Records, Ahmednagar shall submit a report to the Collector in the pending case as early as possible.

6. Needless to observe that respondent - the District Collector, Ahmednagar shall take decision in the matter after following principles of natural justice by hearing all the concerned parties.

7. With the above directions, the writ petition is disposed of.

(SANDEEP V. MARNE, J.)

GGP