

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

WRIT PETITION NO.13405 OF 2021

**PRABHAKAR ASARAM KANGUDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Mahesh S. Bhosale
AGP for Respondents – State : Mr. S. W. Munde
Advocate for Respondents No.5, 6, 8, 10, 16 & 18 to 21 : Mr. V. S.
Bedre h/f Mr. V. P. Savant

Advocate for Respondent No.13 : Mr. I. D. Maniyar

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 15th JULY, 2022

PER COURT :

1. On the oral request made by the learned advocate for petitioner, leave to correct the name of respondent No.7 is granted. Correction be carried out forthwith.
2. The petitioner is aggrieved by the order dated 03/11/2021 passed by the Sub Divisional Officer, Beed, thereby dismissing the appeal filed by the petitioner on the ground of maintainability.
3. The petitioner claims that without he being a party the Tahsildar has passed order under Section 5 of the Mamlatdars' Courts Act, 1906 (for short 'the said Act') adverse to his interest. The petitioner by filing revision before the Sub Divisional Officer under Section 23 of the said Act, challenged the order passed by

Tahsildar. However, inadvertently the revision memo was titled as Appeal. The Sub Divisional Officer, by treating the revision as appeal under Section 247 of the Maharashtra Land Revenue Code, 1966, rejected the same on the ground of maintainability.

4. It is not in dispute that revision under Section 23 of the Mamlatdars' Courts Act, 1906 is maintainable against the order passed by Tahsildar under Section 5 of the said Act. On account of inadvertent error on the part of the petitioner in titling his revision as appeal, the Sub Divisional Officer has dismissed it without considering the same on merits. The impugned order, therefore, cannot be sustained. In the result, writ petition is allowed. The impugned order is quashed and set aside and the matter is remanded back to the Sub Divisional Officer, Beed for consideration of the revision filed by the petitioner on 23/07/2021, on its own merits, treating the same as revision under Section 23 of the Mamlatdars' Courts Act, 1906.

5. The Sub Divisional Officer after giving opportunity of hearing to all the concerned parties shall decide the same within a period of four weeks from the date of receipt of writ of this order. The interim relief order passed by this Court shall operate till the final decision of the revision.

(NITIN B. SURYAWANSHI, J.)