

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13882 OF 2021

Tuljaram Ramchandra Devavale and Others	PETITIONERS
VERSUS	
Yashodabai Hiralal Khare and Others	RESPONDENTS

.....

Mr. S. S. Deshpande, Advocate for the petitioners
Mrs.G. L. Deshpande, AGP for respondent - State
Mr. V. D. Sapkal, Senior Advocate i/b Mr. S.R. Sapkal, Advocate
for respondents No.1 to 4

.....
[CORAM : NITIN B. SURYAWANSHI, J.]
DATE : 9th JUNE, 2022

ORDER :

1. Learned Senior Advocate, Mr. Sapkal, appearing for respondents No.1 to 4, raises a preliminary objection as to the maintainability of the writ petition on the ground that in terms of sub section (2) of section 249 of the Maharashtra Land Revenue Code, the petitioners have alternate and efficacious remedy of filing appeal before the State Government.

2. Learned advocate for the petitioners submits that proviso to section 247 of the MLR Code provides that in no case, number of appeals shall exceed to two and since the petitioners have already preferred two appeals before the Additional Collector and the Additional Commissioner, appeal, if any, filed by them under section 249 (2) of the MLR Code will not be entertained.

3. Section 249 of the MLR Code provides for appeal against review or revision. Sub section (2) of section 249 of the MLR Code provides that an order passed in revision varying or reversing any order shall be appealable as if it were an order passed by the revisional authority in appeal. Considering the language employed in sub section (2) of section 249 of the MLR Code, the apprehension of the learned advocate for the petitioners does not appear to be well founded. This Court is of the considered view that the petitioners have alternate efficacious remedy of filing appeal under section 249 of the MLR Code.

4. At this stage, learned advocate for the petitioners seeks permission to withdraw the writ petition with liberty to file appeal.

5. Writ petition is disposed of as withdrawn with liberty as prayed for. The time spent by the petitioners in prosecuting the present writ petition shall be taken into consideration at the time of considering the delay condonation application, if any, filed by the petitioners along with the appeal.

[NITIN B. SURYAWANSHI]
JUDGE