

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

WRIT PETITION NO.14 OF 2022

Sumanbai Anandrao Gore,	]	
Age : 62 years, Occ. : Agri;	]	
At Post Rajuri, Tq. Rahata,	]	
Dist. Ahmednagar.	]	... Petitioner.

Versus

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|----|---------------------------------------|---|--|
| 1. | The State of Maharashtra |] | |
| | Through Principal Secretary |] | |
| | Revenue and Forest Department |] | |
| | Mantralaya, Mumbai |] | |
| 2. | The Collector, |] | |
| | Ahmednagar |] | |
| 3. | The Sub Divisional Officer, |] | |
| | Shirdi Division, Shirdi |] | |
| | Tq. - Rahata, Dist. Ahmednagar |] | |
| 4. | The Tahsildar, |] | |
| | Rahata, Tq. Rahata, Dist. Ahmednagar] | | |
| 5. | Suresh Narayan Kasab |] | |
| | Age : 50 Years, Occu. Agri., |] | |
| | R/o At Post Rajuri, |] | |
| | Tq. Rahata, Dist. Ahmednagar |] | |
| 6. | Dada Govind Gore, |] | |
| | Age : 45 Years, Occu. Agri, |] | |
| | R/o At Post Rajuri, |] | |
| | Tq. Rahata, Dist. Ahmednagar |] | |
| 7. | Maruti Govind Gore |] | |
| | Age : 68 years, Occu. Agri, |] | |
| | R/o At Post Rajuri |] | |
| | Tq. Rahata, Dist. Ahmednagar |] | |
| 8. | Venunath Rama Pathare (dead) |] | |

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| 9. | Sadashiv Karbhari Golhar |] |
| | Age : 60 Years, Occu. Agri., |] |
| | R/o At Post Rajuri |] |
| | Tq. - Rahata, Dist. Ahmednagar |] |
| 10. | Indrabhan Mahadu Pathare |] |
| | Age : 62 Years, Occu. Agril., |] |
| | R/o At Post Rajuri, |] |
| | Tq-Rahata, Dist. Ahmednagar |] |
| 11. | Subhash Changdeo Pathare |] |
| | Age : 50 Years, Occu. Agril., |] |
| | At Post Rajuri, |] |
| | Tq. Rahata, Dist. Ahmednagar |] |

... Respondents.

...

Advocate for Petitioners : Mr. U. R. Aute h/f Mr. Rajesh Hazarilal Mewara &
Mr. Prakash B. Kanse

AGP for Respondents - State : Mr. S. N. Morampalle

Advocate for Respondent Nos.1, 5 to 7 & 9 to 11 : Mr. Vinod B. Jadhav h/f.
Mr. A. V. Hon.

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CORAM : MANGESH S. PATIL, J.

DATED : 17 JUNE 2022

ORDER :

1. Rule.
2. I have heard the learned advocate of both the sides finally.
3. The order obtained by the petitioner from the Tahsildar under purported exercise of the power under section 155 of the Maharashtra Land Revenue Code, 1966, dated 30 December 2018 was assailed by the contesting

respondents by styling their petition as the one under section 257 of the Code before the learned Sub Divisional Officer and even the latter in purported exercise of that power has decided the appeal.

4. It is apparent that the petitioner had disputed the *locus standi* of the contesting respondents to prefer the appeal and had gone to the extent of challenging jurisdiction of the learned Sub Divisional Officer. There cannot be any dispute about the scheme under Chapter XIII of the Code. It contains the provisions regarding the appeals and revisions. Section 247 of the Code provides for appeals and Schedule – E contains the officers and the names of the appellate authorities. In the light of this provision, an appeal against the order passed by all the officers subordinate to the Sub Divisional officer lie to the Sub-Divisional Officer. Obviously, since the order under section 155 of the Code was passed by the Tahsildar, the Sub Divisional Officer was the appellate authority. Therefore, there cannot be any dispute about the fact that the order passed by the Tahsildar was susceptible to a challenge in the form of an appeal under section 247 of the Code before the Sub Divisional Officer. The only error that seem to have perpetrated is the fact that the contesting respondents had styled their appeal as one under section 257 of the Code and even the learned Sub Divisional Officers by referring to the same provision has decided the appeal.

5. Without going in to the merit of appeal, when the learned Sub

Divisional Officer was the appellate authority against the order of the Tahsildar and could have decided the appeal by resorting to the provisions of section 247 of the Code, merely because a wrong provision was quoted by the contesting respondents and merely because even the learned Sub Divisional Officer has referred to the wrong section of the code, in my considered view and when the power under section 257 of the Code, which refers to the power of revision did not vest in him, it would be appropriate that the order passed by the learned Sub Divisional Officer under challenge in the petition is treated as the one passed in an appeal under Section 247 of the Code. This would then enable the petitioner to prefer a revision as contemplated under that chapter before the appropriate authority. The Revisional Authority would thereafter be in a position to decide the revision respecting all the contentious issues including the *locus standi* of the contesting respondents to challenge the order of the Tahsildar.

6. In the peculiar facts and circumstances, in my considered view instead of going into the merits and disputed facts in exercise of the writ jurisdiction, it would be appropriate that the aforementioned course would serve the substantial justice.

7. Writ petition is disposed of in above terms.

8. All the issues are kept open. The time spent in prosecuting this writ petition may be considered under section 14 of the Limitation Act, 1963.

9. Interim relief that has been in operation till date shall continue for a period of four weeks and the benefit of section 14 of the Limitation Act would be available only if the revision is preferred within that time.
10. Rule is made absolute.

(MANGESH S. PATIL, J.)