IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2175 OF 2021

RBI Employees' Geetanjali CHS Ltd. …..Petitioner

Vs.

State of Maharashtra & Ors. …..Respondents.

Adv. S.A. Abhyankar i/by Adv.Anjali Helekar for the Petitioner.
Mr. S.D. Rayrikar, AGP for the Respondent Nos.1 to 4.

CORAM : A. S. GADKARI, J.
DATE : 13th APRIL, 2022.

<u>P.C.</u>:-

At the outset, Mr. Rayrikar, learned AGP for Respondent Nos.1 to 4-State raised a preliminary objection and submitted that, against the Order dated 24th May, 2021 impugned herein passed under Section 247 of the Maharashtra Land Revenue Code (for short, "the MLRC"), a substantive Revision under Section 257 of the MLRC is available and without availing the said substantive alternate remedy, the Petitioner has directly approached this Court by invoking its jurisdiction under Articles 226 and 227 of Constitution of India.

2 It is the settled position of law and as has been decided in a catena of decisions by Hon'ble Supreme Court, ordinarily the Court will not entertain a Petition under Article 226/227 of the Constitution of India, where the Petitioner has an alternative remedy, which without being unduly

onerous, provides an equally efficacious remedy. Though no hurdle can be put against the exercise of the constitutional powers of the High Court it is a well-recognized principle which gained judicial recognition that, the High Court should direct the party to avail himself of such remedies one or the other before he resorts to a constitutional remedy.

Reliance is placed on the following decisions-

i) *Thansingh Nathmal Vs. The Superintendent of Taxes, Dhubri & Ors. reported in AIR 1964 SC 1419 .*

ii) *A. Venkatasubbiah Naidu Vs. S. Chellappan & Ors. reported in (2000) 7 SCC 695.*

iii) *Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil reported in (2010) 8 SCC 329.*

iv) *Radhey Shyam & Anr. Vs. Chhabi Nath & Ors. reported in (2015) 5 SCC 423.*

v) *Genpact India Private Limited Vs. Deputy Commissioner of Income-Tax & Anr. Reported in (2019) 419 ITR 440 (SC).*

vi) *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai & Ors. Vs. Tuticorin Educational Society & Ors. reported in (2019) 9 SCC 538.*

3 In view thereof, Mr. Abhyankar, learned counsel for the Petitioner, seeks leave to withdraw the present Petition with liberty to avail said substantive alternate remedy available before the Revisional Authority.

Leave and liberty granted.

Writ Petition is disposed off as withdrawn, with aforesaid liberty.

4 It is needless to mention that, the present Petition is disposed off on the basis of the preliminary objection raised by the learned AGP and this Court has not adjudicated merits involved in the present Petition.

The Petitioner is entitled to get benefit of Section 14 of the Limitation Act and to agitate his contention before the Revisional Authority.

(A.S. GADKARI, J.)