TRUPTI SADANAND BAMNE

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7116 OF 2021

Shri. Gorakh Dattoba Saswade … Petitioner

Versus

The State of Maharashtra & Ors. … Respondents

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Mr. Manoj A. Patil i/b. Mr. Y.B. Lengare for the Petitioner.
Mr. R.S.Pawar, AGP for the State.

……...

CORAM : NITIN JAMDAR &
SHARMILA U. DESHMUKH, JJ.

DATED : 19 SEPTEMBER 2022

P.C. :-

Heard the learned Counsel for the parties.

2. By this petition, the Petitioner has challenged the order passed by the Respondent No.3-Tehasildar under Section 48 of the Maharashtra Land Revenue Code, 1966 imposing penalty upon the Petitioner. The contention of the Petitioner is that the Tehasildar has proceeded on wrong factual premises and has not considered the relevant statutory provisions, and has passed an erroneous order.

3. Under the Maharashtra Land Revenue Code, a substantive appeal is provided to the concerned authority as per Section 247 read with Schedule E and there is no reason shown why the Petitioner cannot avail the remedy of appeal.

4. The learned Counsel for the Petitioner states that the Petitioner had filed an appeal, however, the same has been permitted to be withdrawn so that the Petitioner can proceed with the present petition. We have noted the order dated 25 October 2021. The Petitioner had made a statement that that appeal was filed under misconception and thereupon on this statement, liberty was granted to withdraw the appeal. The learned Counsel for the Petitioner is not able to point out as to what was the misconception. The subsequent orders bring out factual issue such as correctness of the exhibits. This aspect will have to be gone into by the appellate authority constituted under the Maharashtra Land Revenue Code.

5. Nothing is shown as to how the alternate remedy is not efficacious nor any well settled parameters of exercise of writ jurisdiction despite availability of alternate remedy are demonstrated. If the writ petitions are entertained despite the availability of the alternate remedy of statutory appeal under the Maharashtra Land Revenue Code, it will make the appellate remedy otiose and will open floodgates for filing writ petitions bypassing the appellate remedy in every case.

6. The writ petition is accordingly disposed of. Liberty to the Petitioner to revive or file fresh appeal which will be considered as per its own merits.

(SHARMILA U. DESHMUKH,J.) **(NITIN JAMDAR, J.)**