

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

910 WRIT PETITION NO.2262 OF 2022

OSMANABAD JILHA MARATHI PATRAKAR SANGH OSMANABAD
THROUGH ITS PRESIDENT
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioner : Mr. V. B. Deshmukh
AGP for Respondents State: Mr. P. K. Lakhotiya

CORAM : RAVINDRA V. GHUGE, &
Y. G. KHOBRAGADE, JJ.

DATE : 18th July, 2023

ORDER:

1. When we passed the first order on 21st February, 2022 granting interim protection to the petitioner, it was on the condition of depositing Rs.12 lakhs in this Court. We were not aware that the petitioner has already approached the Additional Divisional Commissioner-2, Aurangabad under section 247 of the Maharashtra Land Revenue Code for challenging the order of the District Collector dated 28.12.2021. The same order is impugned in this petition.

2. Rs.12 lakhs have been deposited in this Court. We find from paragraph No. 14 of the petition memo that the petitioner has made a statement that it has not preferred any other appeal or application touching the subject matter before any Court, except the present writ petition. In this circumstance, the law laid down by the Hon'ble

Supreme Court in **Kishore Samrite Vs. State of Uttar Pradesh, (2013) 2 SCC 398** and **Bhaskar Laxman Jadhav and others Vs. Karamveer Kakasaheb Wagh Education Society, AIR 2013 SC 523**, would squarely apply to this case. When the proceedings were already pending before the Additional Divisional Commissioner, it would be the duty of the petitioner to disclose the said fact to this Court. In fact, by an order dated 28.02.2023, the Additional Divisional Commissioner closed the file keeping in view that the petitioner has filed this petition.

3. In view of the above and the law settled by the Hon'ble Supreme Court, **this petition is disposed off.**

4. The learned Advocate for the petitioner prays for liberty to approach the Additional Divisional Commissioner and revive the proceeding in Prakra.2022/ROR/REV/CR55. The said request is accepted. The petitioner will be at liberty to approach the said authority and pray for restoration of the proceeding. The said authority shall follow the due procedure laid down in law and proceed with the said proceedings and decide the matter strictly in accordance with the legal provisions.

5. In the above circumstance, we could have passed the order of forfeiting the amount of Rs.12 lakhs deposited by the petitioner in this court. However, considering the relevant facts, we are refraining from passing the said orders. Instead, the said amount shall be

transmitted by the Registrar of this Court to the District Collector, which would be subject to the result of the pending proceeding of the petitioner.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan