

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.2973 OF 2008**

DROPADABAI KISAN HIVRALE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

..RESPONDENTS

...

Mr. Ram B. Deshpande, Advocate for the Petitioner.

Mr. S. B. Yawalkar, AGP for Respondents-State.

Mr. S. K. Barlota, Advocate for Respondent Nos.3 and 4.

...

**CORAM : NITIN W. SAMBRE AND
S. G. CHAPALGAONKAR, JJ.**

DATE : 06th MARCH, 2023.

P.C:-

1. In exercise of powers under Section 15 (2) of the Maharashtra Land Revenue Code, 1966, the claim of the petitioner for revocation/cancellation of the allotment of the land in favour of respondents was rejected vide order impugned dated February 18, 2008 with an observation that *interse* between the parties the issue is pending consideration before this Court in Second Appeal No.226/2007.

2. The claim of the petitioner is that she has initiated suit bearing RCS No.1284/2001. Out of the aforesaid suit, the Second Appeal bearing Second Appeal No.226/2007 came to be admitted on July 12, 2007. According to her, the issue which felt for consideration before this Court in the Second Appeal is altogether different than the one which is canvassed in the

present petition. So as to substantiate the said claim, the petitioner has invited our attention to the question of law framed by this Court while passing the order of admission of Second Appeal dated July 12, 2007. According to her, the revenue authority viz. Tahasildar while passing the impugned order has already made certain observations as regards the conduct of the respondents in the matter of transfer of the suit property in favour of the respondents.

3. The learned counsel would further urge that the issue as such, which is sought to be canvassed cannot be said to be covered by the issue which is under consideration in the Second Appeal. As such, according to him, the direction needs to be issued to the respondents to act in accordance with the findings recorded in the impugned order dated February 18, 2008.

4. The learned counsel for the respondents and the learned A.G.P. would support the impugned order, as it is claimed that the order impugned is made subject to the outcome of Second Appeal No.226/2007.

5. We have appreciated the rival submissions of the parties.

6. It is worth to note that in the impugned order dated February 18, 2008 the revenue authorities having regard to the pendency of the Second Appeal No.226/2007 have made an observations that any further action in regard to the land which is in possession of respondent nos.3 and 4 shall be taken recourse once the Second Appeal which is pending *interse* between the parties shall be decided.

7. Once the parties are litigating for their rival claims before the competent Civil Court as the Second Appeal is continuation of the suit proceeding, we do not see any reason which warrant interference in the writ jurisdiction.

8. The Writ Petition as such fails and stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE

(NITIN W. SAMBRE)
JUDGE