

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

69 CIVIL APPLICATION NO.8252 OF 2023
IN WP/3601/2023 WITH WP/3601/2023

RAGHUNATH GYANOBA KADAM DIED THROUGH LRS SEEMABAI @
SIMINTABAI RAGHUNATH KADAM AND ORS
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SERETARY AND OTHERS

...
Advocate for Applicants : Ms. Mhase Madhaveswari S.
AGP for Respondents 1 to 3 in WP : Mrs. R.P. Gaur
Advocate for Respondent 5 in WP : Mr. A.D. Sonkawade
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CORAM : ARUN R. PEDNEKER, J.
DATED : 25/09/2023

PER COURT :

1. Heard the learned counsel for the respective parties.
2. This Court by order dated 30.9.2016 in Writ Petition No. 2743/2015 has held that the Civil Court ought to have referred the matter to the concerned authority under the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act to decide the issue of fragmentation in terms of the application filed by the petitioner. In terms of the order of this Court, the matter was referred to D.I.L.R. for consideration of issue of fragmentation. On consideration of issue of fragmentation, the D.I.L.R. has held that he is not the authority constituted under the Act to consider the issue of fragmentation and the concerned authority is Additional Collector as the powers under the Fragmentation Act are delegated to the Additional Collector. The learned counsel for the petitioner has challenged the order passed by the D.I.L.R.
3. The learned counsel for the respondents has produced Government Resolution dated 28th April 1958, by which the powers to decide the issue

of fragmentation are conferred on the Additional Collector under section 2 (11) of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 read with section 8 of the Bombay Land Revenue Code, 1879.

4. In view of the above, the issue of fragmentation before the Civil Court, which was referred to D.I.L.R., is now referred to Additional Collector, Latur. The Additional Collector to decide the issue of fragmentation within a period of six months from the date of receipt of this order. Parties to appear before the Collector on 4.10.2023 so as to enable the Additional Collector to fix further dates in the matter. D.I.L.R. to transfer entire record to the Additional Collector Latur. Additional Collector to pass the order after hearing all the parties. The writ petition is disposed of accordingly. In view of the above, civil application is also disposed of.

[ARUN R. PEDNEKER J.]

ssc/