

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

945 CIVIL APPLICATION NO.11120 OF 2023
IN WRIT PETITION NO.5532 OF 2023
WITH
WRIT PETITION NO.5532 OF 2023

SAYYAD MUSADIKH ATIKHSAB SAYYAD
VERSUS
THE STATE OF MAHARASHTRA & OTHERS

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Advocate for Applicant : Mr.K.T.Shirrurkar
AGP for Respondent-State : Mr.B.V.Virdhe

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CORAM : ARUN R. PEDNEKER, J.

DATE : 20.10.2023

P.C. :

1] Heard the learned counsel for the parties.

2] The present Civil Application is filed to recall the order dated 24th July, 2023 passed by this Court in Writ Petition No.5532 of 2023 wherein the petitioner sought leave to withdraw the petition with liberty to approach the appropriate authority. Leave was granted.

3] The learned counsel for the petitioner submits that there is Bank loan on the said vehicle and due to non use of the vehicle, the parts of the vehicle are sustaining rust and damage. Therefore, the alternate remedy is not efficacious to redress the grievance of the applicant. The

learned counsel for the applicant submits that inadvertently there was error on the part of the Advocate to withdraw the matter although he did not intent to withdraw the Writ Petition and he prays that the order dated 24.07.2023 passed by this Court may kindly be recalled.

4] In view of the same, the order dated 24.07.2023 passed by this Court in Writ Petition No.5532 of 2023 is recalled. The present Writ Petition is restored to its original position. Civil Application is disposed of accordingly.

5] The learned AGP submits that remedy of revision / appeal is available against the order dated 11.01.2021 passed by the Sub Divisional Officer before the Additional Collector under the Maharashtra Land Revenue Code.

6] The learned counsel for the petitioner submits that the order is mechanically accepted by the Tahsildar and there is no application of mind by the Sub Divisional Officer. In view of the alternate remedy, the Writ Petition is disposed of with liberty to the petitioner to approach the Additional Collector to challenge the order passed by the Sub Divisional Officer. The petitioner is permitted to make all his legal submissions before the Additional Collector.

7] In view of the same, the petitioner is granted liberty to file revision / appeal before the Additional Collector. If revision / appeal is filed by the petitioner before the Additional Collector, the Additional Collector is directed to decide the said revision / appeal in accordance with law and deal the matter taking into consider the submissions of the petitioner in accordance with law.

8] In the event, the application is filed by the petitioner for release of the vehicle, the Additional Collector to decide the said application by taking into consideration Section 256 of the Maharashtra Land Revenue Code and applicable laws and the said application to be decided as early as possible and in any event within a period of two weeks from the date of filing such application.

9] With the above observations, the present Writ Petition is disposed of.

[ARUN R. PEDNEKER]
JUDGE

DDC