

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5735 OF 2023

Late Dattatray Dhondiba Raut (deceased)
through his legal heirs & Ors.

.. Petitioners

Versus

Smt.Gangubai Vithal Jadhav (deceased)
through her legal heirs & Ors.

.. Respondents

Mr.Karl Tamboli a/w Mr.A.P. Deshmukh and Mr.D.A. Palande for the
Petitioners.

Mr.Atul Damle, Senior Advocate i/by Mr.Vikas Shivarkar for the
Respondent Nos.1 to 4.

Mr.Girish Godbole i/by Sachin D. Kadam for the Respondent No.5.

Mr.J.D. Khairnar for the Respondent No.6.

Mr.R.S. Pawar, AGP for the Respondent Nos.7 to 12-State.

**CORAM : R.D. DHANUKA &
GAURI GODSE, JJ.**

DATE : 20th April 2023

P.C.:-

. Rule. Learned counsel appearing for the respective parties
waives service. Rule is made returnable forthwith. By consent of the
parties, petition is taken up for final hearing.

2. This petition is filed for seeking direction against the
Respondent Nos.11 and 12 to decide the Revision Application bearing
No.RTS/3423/1136/P.K.89/J-5 which is pending. The Revision
Application is filed against the order passed by the Additional
Commissioner, Pune in RTS Revision No.326 of 2022 passed on 9th
February 2023. The RTS Revision No.326 of 2022 was filed against the

order dated 29th June 2022 passed by the Additional Collector, Pune in RTS Appeal No.295 of 2019 and RTS Appeal No.437 of 2019.

3. Learned counsel for the Petitioner states that there was interim protection granted by an order dated 9th January 2023 in Interim Application No.203 of 2023 in Writ Petition No.14541 of 2022 which was directed to be continued for a period of two weeks from the date of communication of the order if the order passed by the Additional Divisional Commissioner was adverse to the Petitioners.

4. Learned counsel for the Petitioners states that by an order dated 9th February 2023 passed by the Additional Divisional Commissioner which is challenged in the aforesaid Revision Application, the effect of order was already stayed for appeal period which expires on 10th May 2023.

5. Learned AGP for the Respondent Nos.7 to 12, on instructions, states that Revision Application which is pending before the Hon'ble Minister will be decided within a period of three months from today.

6. All parties agreed that the order dated 29th June 2022 passed by the Additional Collector is not implemented till date.

7. In view of the statement made by the learned AGP, writ petition can be disposed off by passing the following order :-

- (i) The Respondent No.12 to decide the Revision Application bearing No.RTS/3423/1136/P.K.89/J-5 within three months from today;

- (ii) It is made clear that we have not expressed any view on merit of the Revision Application. Revision application to be decided on its own merit.
- (iii) Effect of the order dated 29th June 2022 passed by the Additional Collector, Pune passed in RTS Appeal No.295 of 2019 and RTS Appeal No.437 of 2019 is stayed during the pendency of the Revision Application pending before the Respondent No.12 and will continue for a period of three weeks, in the event the decision taken by Respondent No.12 is adverse to the Petitioners;
- (iv) In the event of the decision taken by the Respondent No.12 is adverse, the Petitioners will be at liberty to take out appropriate proceedings as permissible in law;
- (v) Decision that would be taken by the Respondent No.12 shall be communicated to the Petitioner within one week from the date of decision;
- (vi) All contentions of both the parties are kept open.

8. Writ petition is disposed off. Rule is made absolute in above terms. All the parties to act on the authenticate copy of this order.

GAURI GODSE, J.

R.D. DHANUKA, J.