



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7400 OF 2023

Rahibai Laxman Lokhande & Ors.

...Petitioners

Versus

State of Maharashtra & Ors.

...Respondents

Mr. Keshav B. Borhade, for the Petitioners.

Mrs. M. S. Srivastava, AGP, for the State/Respondent Nos.1 and 2.

Mr. Tejas Deshmukh, for Respondent Nos.3 to 8.

CORAM : MADHAV J. JAMDAR, J.

DATED : 5th DECEMBER 2023

JUDGMENT :

1. Heard Mr. Keshav Borhade, learned counsel appearing for the Petitioners, Mrs. Srivastava, learned AGP appearing for the State/Respondent Nos.1 and 2 and Mr. Tejas Deshmukh, learned counsel appearing for Respondent Nos.3 to 8.

2. The challenge in the present Writ Petition is to the legality and validity of the order dated 18th April 2023 passed by the District Superintendent of Land Records in Appeal क्र.एकत्री/अ.क्र. ५४१९/२०२२/२७३२. The challenge in the said Appeal was to the Mutation Entry No.3130.

3. At the outset, it is the contention of Mr. Deshmukh, learned counsel appearing for the contesting Respondents that the Writ Petition be not entertained in view of the availability of the alternate remedy. He submitted that there is Appeal provided under Section 247 of the Maharashtra Land Revenue Code, 1966 (“**the said Code**”).

The said Section 247 reads as under:-

“247. Appeal and appellate authorities.”-(1) In the absence of any express provisions of this Code, or of any law for the time being in force to the contrary, an appeal shall lie from any decision or order passed by a revenue or survey office specified in column 1 of the Schedule E under this Code or any other law for the time being in force to the officer specified in column 2 of that Schedule whether or not such decision or order may itself have been passed on appeal from the decision or order of the officer specified in column 1 of the said Schedule:

Provided that, in no case the number of appeals shall exceed two.

(2) When on account of promotion or change of designation, an appeal against any decision or order lies under this section to the same officer who has passed the decision or order appealed against, the appeal should lie to such other officer competent to decide the appeal to whom it may be transferred under the provisions of this Code”.

(Emphasis added)

4. The relevant portion of Schedule E, which is referred in Section 247 of the said Code is as follows:-

**SCHEDULE E
(SEE SECTION 247)**

	SURVEY OFFICER	APPELLATE AUTHORITY
1.	District Inspector of Land Records, Survey Tahsildar and such Officers not above the rank of District Inspector of Land Records.	Superintendent of Land Records or Officers of equal ranks as may be specified by the State Government in this behalf.
2.	Superintendent of Land Records and other Officers of equal ranks.	Director of Land Records or the Deputy Director of Land Records, who may be invested with the powers of Director of Land Records by the State Government in this behalf.

(Emphasis added)

5. Thus, therefore, it is clear that the Appeal will lie to the Director of Land Records as the impugned order is passed by the District Superintendent of Land Records.

6. It is the contention of learned counsel appearing for the Petitioners that the impugned order itself has been passed in Appeal and therefore, the Second Appeal is not competent under Section 247 of the said Code. However, Section 247 of the said Code very clearly specifies that two Appeals are competent and the Appellate Authorities are described in Schedule E. In fact, Section 247 clearly provides that an appeal shall lie from any decision or order passed by a revenue or survey office specified in column 1 of the Schedule E

under said Code or any other law for the time being in force to the officer specified in column 2 of Schedule whether or not such decision or order may itself have been passed on appeal from the decision or order of the officer specified in column 1 of the said Schedule. Therefore, there is no substance in the said contention.

7. Learned counsel appearing for the Petitioners has also relied on the decision dated 19th December 2019 passed by a learned Single Judge in Writ Petition No.5478 of 2016 [Nagpur Bench] in the case of **Shri. Abdul Shahid vs. Shri. Abdul Rab & Ors.** However, the said decision is concerning whether in the facts and circumstances of that case, the alternate remedy of Revision under Section 257 of the said Code is efficacious remedy and whether the same is the alternate remedy. The said decision will have no application to the present case.

8. Accordingly, the Writ Petition is dismissed in view of availability of the alternate remedy of statutory Appeal under Section 247 of the said Code, with no order as to costs.

9. It is clarified that the Petitioners can file the Appeal as contemplated under Section 247 of the said Code challenging the impugned order. It is further clarified that this Court has not

considered the merits and all contentions on merits are expressly kept open.

10. For the Petitioners to avail the remedy of Appeal, the proceedings before the Respondent No.2 are stayed upto 31st December 2023.

[MADHAV J. JAMDAR, J.]