

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

**INTERIM APPLICATION NO. 203 OF 2023
IN
WRIT PETITION NO. 14541 OF 2022**

Late Dattatray Dhondiba Raut
deceased thr. Lrs. Nanda Sanjay
Raut and Ors.

..Applicants/ Ori. Petitioners

V/s.

Smt. Gangubai Vithal Jadhav
decd. Thr. Lrs. Chandrakant
Dinkar Jambhulkar and Ors.

..Respondent

**SNEHA
NITIN
CHAVAN**

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Date: 2023.01.10
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Mr. Karl Tamboly a/w Abhishek Deshmukh, Digvijay Palande for
the Applicant in IA.

Mr. Atul Damle, Senior Advocate a/w M. Ansari i/b Vikas
Shivarkar for the Respondent Nos. 1 to 4.

Mr. Sachin Kadam for Respondent No.5.

Mr. Jayendra Khairnar for Respondent No.6.

Mr. A.P. Vanarase, AGP for Respondent Nos. 7 to 12/State.

**CORAM : R.D.DHANUKA, AND
M.M.SATHAYE, JJ.**

DATE : 9th JANUARY 2023

P.C.

. By this Interim Application, the Applicants (original
Petitioners) pray for quashing and setting aside the impugned
order passed by the learned Additional Divisional Commissioner
on 13.12.2022 rejecting the stay application filed by the
Applicants and for other reliefs.

2. It is the common ground that the Revision Application filed by the Petitioners bearing Computer No. 2022/00326 is still pending before the learned Additional Divisional Commissioner. This Court had passed an order on 25.11.2022 directing the Additional Divisional Commissioner, to decide the Revision Application within a period of four weeks from the date of granting personal hearing to the Petitioner as well as Respondent Nos.1 to 4 and 6. The said order was thereafter clarified on 01.12.2022 granting liberty to the Petitioners to press for stay before the Revisional Authority on the date assigned and directing the Revisional Authority to dispose of the said stay application within two weeks from the date of hearing proposed to be held on 28.11.2022.

3. Mr. Tamboly, the learned counsel for the Applicants invited out attention to order dated 13.12.2022 rejecting the stay application. The learned Additional Divisional Commissioner has passed 7 pages order rejecting the said stay application. We are informed that Revision Application is now to be heard on 16.01.2023.

4. Mr. Damle, the learned Senior Counsel for Respondent Nos. 1 to 4 vehemently urged that the order dated 13.12.2022 passed by the Additional Divisional Commissioner is a fresh cause of action and cannot be challenged by way of Interim Application.

5. It is not in dispute that Writ Petition No. 14541 of 2022 is still pending. We could have granted liberty to the Applicant to seek amendment in the Writ Petition and to impugn the said interim order dated 13.12.2022 rejecting the stay application filed by the Petitioners. However, in view of the fact that the Revision Application itself is directed to be heard on 16.01.2023, we direct the Additional Divisional Commissioner to hear the parties and dispose of the said Revision Application within 10 weeks from the date of granting personal hearing in the said Revision Application. The order dated 13.12.2022 passed by the Additional Divisional Commissioner to stand stayed till the Revision Application filed by the Applicants is decided by the Additional Divisional Commissioner. It is made clear that the Additional Divisional Commissioner shall decide the Revision Application on its own merits without being influenced by the observations made in the impugned order dated 13.12.2022. The order that would be passed by the Additional Divisional Commissioner shall be communicated to both the parties within one week from the date of passing of such order.

6. It is made clear that if the order that will be passed by the Additional Divisional Commissioner is adverse to the Petitioners, then it shall not be implemented for a period of two weeks from the date of communication of the order.

7. It is further made clear that during the pendency of the Revision Application, the Authority shall not make any changes in the Revenue record insofar as the entry in the name of Respondent No.6 is concerned.

8. Writ Petition as well as Interim Application are disposed of in the aforesaid terms. No order as to costs.

M.M.SATHAYE, J.

R.D.DHANUKA, J.