

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 2963 OF 2018

Sahebkha Amirkha Pathan,
Aged about 69 years, Occ. Farmer
R/o Patur (Nandapur), Tq. & Dist.
Akola

...Petitioner

// VERSUS //

1. Munirabai Wd/o Hafijkha Pathan,
Age 33 Years,
R/o C/o Jabbarkha Sherkha
R/o Ramji Nagar, Borgaon Manju,
Tq. & Dist. Akola

2. Ku. Saniya Parvin D/o Hafijkha
Age Occ. Nil
R/o Ramji Nagar, Borgaon Manju,
Tq. & Dist. Akola

3. Circle Officer, Kurankhed, Tq. & Dist.
Akola

... Respondents

Shri D.P.Bhongade, Advocate for the petitioner.

Shri A.C.Dharmadhikari, Advocate for the respondent nos. 1 and 2.

Ms. H.N.Jaipurkar, AGP for the respondent no.3/State.

CORAM : ANIL S. KILOR, J.

DATED : 11th JANUARY, 2023.

ORAL JUDGMENT :

In this writ petition, the challenge is raised to the order dated 16th January, 2018 passed by learned Additional Commissioner, Amravati Division, Amravati in case No. 229/RTS-59/Ghonga/2015-16.

2. Learned counsel for the petitioner points out that the age of the petitioner is 69 years and as the petitioner was continuously absent

because of his wife's death and as he was not in a position to attend the said proceeding, therefore, it was dismissed. It is pointed out that if the petitioner is not permitted to contest the case on merit, he will lose his shelter as the daughter-in-law of the petitioner is trying to grab the property.

3. Ms. Jaipurkar, learned Assistant Government Pleader appears on behalf of the State supports the impugned order.

4. Shri Dharmadhikari, learned counsel for the respondent nos. 1 and 2 submits that for one and half years petitioner was continuously absent and therefore the learned Additional Commissioner has rightly dismissed the proceeding for the above said reason.

5. After going through the record and the impugned order, it can be seen that the petitioner is 69 years of old and during the period when he was absent his wife died due to illness and it appears that petitioner was not in a position to attend the proceeding and that resulted into dismissal of the proceeding.

6. The record shows that the petitioner is a farmer and the subject matter is the mutation entry in the revenue record.

7. In the circumstances, I am of the opinion that in this case liberal approach needs to be adopted. Accordingly, I pass the following order.

- i. Writ petition is allowed;
- ii. Order dated 16th January, 2018 passed by Additional Commissioner, Amravati Division, Amravati in Case No. 229/RTS-59/Ghonga/2015-16 is hereby quashed and set aside.
- iii. Petitioner shall appear before the learned Additional Commissioner, Amravati Division, Amravati on **30th January, 2023**. Thereupon, the learned Additional Commissioner, Amravati Division, Amravati may issue notice.

[ANIL S. KILOR, J.]

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