2025:BHC-AUG:21770

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

14 WRIT PETITION NO. 1334 OF 2018

RAJU RANGBNATH PATARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
…..

Mr. Rahul R. Karpe, Advocate for the Petitioners
Ms. R. R. Tandale, AGP for the Respondent/State
Mrs. B. B. Gunjal, Advocate for Respondent No.2

CORAM : R. M. JOSHI, J.
DATE : 11th AUGUST, 2025

PER COURT :-

1. Learned Counsel for both side are heard.

2. Though during the course of hearing, submissions are made on merits of the case, it is noticed by this Court that in the impugned order Maharashtra Revenue Tribunal has held that it has no jurisdiction to entertain an Appeal and the Appeal against the order impugned before it would lie under Section 247 Maharashtra Land Revenue Court before the Divisional Commissioner.

3. Learned Counsel for the Petitioners submits that these observations are incorrect in view of the provisions of Maharashtra Restoration of Lands to Schedule Tribes Act, 1974. He drew attention of the Court to the Section 6 of the said Act which provides for an Appeal

against the decision or order passed by the Collector before the Maharashtra Revenue Tribunal. It is his submission that Tahasildar, delegatee, of the Collector has passed the order impugned, it was challenged before Tribunal and that the Tribunal had jurisdiction to entertain the said Appeal. It is his contention that since the Appeal has not been decided on merit and instead the impugned order is set aside by relegating the matter back to the Tahasildar, this order cannot be allowed to be continued and be set aside with relegating the mater back to the Tribunal for decision on merit.

4. Learned Counsel for the contesting Respondent does not oppose the said preposition.

5. Undeniably, the Application filed before the Tahasildar is under Section 3 of Maharashtra Restoration of Lands to Schedule Tribes Act. Tahasildar is delegatee of Collector. Thus, the order passed by the Tahasildar is applicable under Section 6 of the said Act before the Maharashtra Revenue Tribunal. The Revenue Tribunal has committed error in observing that in view of the provisions of Section 247 of the MLR Code, the Appeal would lie before the Divisional Commissioner. Since Application was under provisions of Act of 1974, question of applying provisions of MLR Code for the purpose remedy for challenging the order under the provisions of Section 3 would not arise.

6. As a result of above discussion, the order passed by the Tribunal cannot sustain and hence, stands set aside. The proceedings of Appeal No. 37/A/2016 is relegated back to the Tribunal for decision afresh in accordance with law. Since the Appeal is of year 2016, Tribunal is directed to decide the same expeditiously and in any case within a period of six months from today. Interim relief to continue till the decision of the Appeal. Parties to appear before the Tribunal on 18th August, 2025. Tribunal not to issue any fresh notices to the parties.

(R. M. JOSHI, J.)

ssp