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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

926 WRIT PETITION NO. 11769 OF 2014

BHAGAWN KASHIRAM DHAWANE

VERSUS

**BISAMILLABI MUNVARKHAN, DIED, THR. L.RS. SHAKUR
TAJMIR PATHAN AND OTHERS**

....

Mr N. L. Jadhav, Advocate for petitioner

Mr H. V. Patil, Advocate for respondent Nos.1/1/A & 1/1/B and 2

Mr M. N. Kalyane, Advocate for respondent No.4/2

Ms R. R. Tandale, A.G.P. for respondent Nos.12 to 15

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 10th July, 2025

PER COURT:

1. Heard Advocate Mr Jadhav, learned counsel for the petitioner; Advocate Mr Hanmant Patil, learned counsel for respondent Nos.1/1/A and 1/1/B; Advocate Mr Kalyane, learned counsel for respondent No.4/2 and learned A.G.P. appearing for respondent Nos. 12 to 15.

2. By this petition, the petitioner has challenged the order dated 31/10/2014 passed by respondent No.12/Deputy Commissioner (Entertainment Duty) Aurangabad Division, Aurangabad, Tq and Dist. Aurangabad, in Case No.ROR/REV/129/2013/L, by which, the order passed by respondent No.13/Additional Collector, Latur, dated

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20/02/2013 is quashed and the order dated 11/10/2010, passed by the respondent No.15/Tahsildar, Renapur and the order dated 20/09/2011, passed by the Sub Divisional Officer, Renapur, are confirmed.

3. The controversy arises out of the order passed in Execution Proceedings for execution of decree in Regular Civil Suit No.817/1983, which was a suit for partition and separate possession. During the process of execution of the decree for possession, the parties had approached to the Revenue Authorities including Sub Divisional Officer, Renapur; Additional Collector, Latur and finally before respondent No.12/Deputy Commissioner (Entertainment Duty), Aurangabad Division, Aurangabad.

4. Advocate Mr Hanmant Patil, learned counsel for respondent Nos.1/1/A, 1/1/B and 2 raises preliminary objection to the maintainability of the petition on the ground of availability of an alternate remedy by way of revision under Section 257 of the Maharashtra Land Revenue Code, 1966. He submits that, in view of the judgment of the Hon'ble Supreme Court in the matter of **Gurudassing Nawoosing Panjwani Vs. The State of Maharashtra and others, 2016 (6) ALL MR 468 (S.C.)**, the position of law is clear and the petitioner had an alternate efficacious remedy to approach

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before the State Government for challenging the impugned order. He also submits that the petition is at the stage of admission and in view of the alternate remedy, the petitioner can be relegated to the revisional authority.

5. Learned counsel for the petitioner does not dispute the position as laid down in the above mentioned matter, however, submits that, in view of the controversy involved, particularly, issue of challenge to the authority i.e. respondent exceeding his jurisdiction by passing this order, the instant petition can be entertained.

6. It is undisputed position that the instant petition is not admitted yet and in view of the controversy involved, the impugned order can be subjected to challenge before the Revisional Authority under Section 257 of the Maharashtra Land Revenue Code. Learned counsel for the respective respondents relied on several judgments of the Hon'ble Supreme Court, including judgments in the matter of **Commissioner of Income Tax and others Vs. Chhabil Dass Agarwal, 2014(1) SCC 603; Radha Krishan Industries Vs. State of Himachal Pradesh and others, (2021) 6 SCC 771 and Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others, (1998) 8 SCC 1**, to buttress their submissions that in view of an

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alternate remedy, the petition is not maintainable, since this is not the case of absence of jurisdiction and therefore, the exceptions to entertain the petition despite alternate remedy are not attracted.

7. The position of law as laid down in above mentioned judgments is not disputed.

8. Having regard to the submissions advanced by the parties on the point of preliminary objection about maintainability of the petition, I am of the considered view that the petitioner has an alternate remedy of filing revision before the Revisional Authority and the instant petition is not maintainable on that count.

9. In view of this, the writ petition is dismissed as not maintainable. No order as to costs.

10. The petitioner is at liberty to file appropriate application for revision before the competent authority. It is clarified that this Court has not decided merits of the matter and the petitioner is entitled to raise all the factual and legal aspects before the Revisional Authority. It is also clarified that, in case the petitioner files revision application, he is entitled to raise the issue about pendency of the instant petition since 2014 till today, for the purpose of seeking condonation of delay, if any.

11. In view of the controversy involved, in case the petitioner files any revision application, the Revisional Authority should decide the same expeditiously.

(PRAFULLA S. KHUBALKAR, J.)

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