



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

11 WRIT PETITION NO. 12757 OF 2024

Dhruvat Apparao Alias Appadeo RautPetitioner

VERSUS

The State of Maharashtra & othersRespondents

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Mr. V. C. Patil (Ashtekar), Advocate for the Petitioner.

Mr. D. B. Bhange, AGP for the State.

Mr. N. V. Mande, Advocate for Respondent No. 5.

CORAM : R. M. JOSHI, J.

DATE : 21st APRIL, 2025.

PER COURT :

1. This petition takes exception to the order dated 18.09.2024 passed by Sub-Divisional Officer in Revision No. [२०२२/पुनरिक्षण/मामलेदार/सीआर-३०](#) against the order dated 18.09.2024 passed by the Tahsildar, Gangapur under Section 5(2) of the Mamlatdar Courts Act.

2. Learned counsel for the Petitioner has drawn attention of the Court to the impugned order in order to submit that the Sub-Divisional Officer has not recorded any finding and has set aside the

order of the Tahsildar only on the ground that the Tahsildar has not decided as to whether the application filed before him was within limitation or it is covered by provisions of Malatdar Courts Act. It is his submission that on recording such finding the only option available for the Sub-Divisional Officer was to relegate the matter back to the Tahsildar for decision afresh.

3. Learned counsel for contesting Respondent has sought to support the impugned order. In order to do so, he took this Court to the previous round of litigation and orders passed by the Tahsildar as well as Sub-Divisional Officer. It is his contention that considering the application filed before the Tahsildar so also statement made before the Tahsildar at the time of conducting of panchanama indicate that the application is not filed within a period of six months and as such the same is not maintainable.

4. In the second round of litigation, the Sub-Divisional Officer has observed that the Tahsildar while passing order dated 11.08.2023 has not considered the issue as to whether the application is within limitation or the same is maintainable under the provisions of the act. With these observations, the Sub-

Divisional Officer was expected to relegate the matter back to the Tahsildar for decision on these issues by Tahsildar. Instead, the Sub-Divisional Officer rejected the application itself. Rejection of the application in this manner has resulted into non-recording of any finding with regard to the maintainability of the application on the ground of limitation as well as its applicability to the cause of action.

5. In the circumstances, the order passed by the Sub-Divisional Officer cannot sustain. The impugned order is set aside. Tahsildar, Gangapur is directed to decide the application filed by the Petitioner afresh. Since learned counsel for the contesting Respondent is unable to make statement with regard to any objection being raised by the Respondent to the application filed by the Petitioner about its maintainability on the ground of limitation, if any such objection is there, the Tahsildar to consider the same and pass appropriate order, in accordance with law.

6. Since the issue is pending for about two years, the Tahsildar is directed to decide the same within a period of three months as per law.

7. Petition stands disposed of in above terms.

(R. M. JOSHI)
Judge

dyb