



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 87 OF 2019

Yogesh Sanjay Kolpe

....Petitioner

VERSUS

The State of Maharashtra & others

.....Respondents

Mr. K. B. Borde, Advocate for the Petitioner.

Mr. S. N. Kendre, AGP for the State.

CORAM : R. M. JOSHI, J.

DATE : 10th OCTOBER, 2025.

PER COURT :

1. Heard both sides.
2. During the course of hearing, learned counsel for the Petitioner has drawn attention of the Court to the specific plea raised before the Additional Collector while taking exception to the order passed by the Tahsildar dated 23.08.2015 claiming that no notice was received by the Petitioner from Tahsildar, Kopargaoon, before the notice of proceeding was issued to him. In spite of such specific plea being raised, neither the Additional Collector nor the Divisional Commissioner has recorded any finding thereon.

3. Learned AGP submits that the original record indicates that notice was duly served and acknowledgement is found thereon. Learned counsel for Petitioner disputes the said signature to be of the Petitioner.

4. Since disputed facts are involved herein, this Court is unable to record any finding thereon for the first time. Instead, it would be appropriate that the impugned orders passed by the Sub-Divisional Officer, Additional Collector and the Divisional Commissioner are set aside relegating the matter back to the Sub-Divisional Officer for decision afresh in RTS Appeal No. 346/2015. It is expected that the Sub-Divisional Officer decides the specific plea raised by the Petitioner in respect of non-service of notice dated 10.04.2015 amongst decision in respect of other issues.

5. In view of above, orders passed by the Sub-Divisional Officer, Additional Collector and Divisional Commissioner stand set aside. The Sub-Divisional Officer to decide the appeal within a period of for weeks afresh in view of the aforestated directions.

6. Order of attachment of the property of Petitioner to remain in force for a period of four weeks from today. It is however directed that no auction of the said property shall be held for a period of eight weeks from today. All issues are kept open for re-consideration of the Sub-Divisional Officer.

7. Petition stands disposed of in above terms.

(R. M. JOSHI)
Judge

dyb