

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 475 OF 2024

Kamalakar yashvant Sawant

...Petitioner

V/s.

State of Maharashtra & Ors.

...Respondents

Mr. Mayank Bagta *a/w Mr. Aditya Indulkar i/b Mr. Swapan Samdani for the Petitioner.*

Mr. Vrushabh Sarle *i/b M/s. L.C. Tolat & Co. for Respondent No.6.*

Mr. S. D. Rayrikar, *AGP for Respondent-State.*

CORAM: SANDEEP V. MARNE, J.

Dated: 6 MAY 2025.

P.C.:

1) Petition challenges order dated 17 June 2023 passed by the Additional Commissioner, Konkan Division holding that revision preferred by the Petitioner did not lie in the jurisdiction of the Additional Commissioner.

2) Respondent No.6 had preferred Appeal No.37 of 2010 before the Sub Divisional Officer, Kudal (SDO) challenging Mutation Entry No.7245. The Appeal was allowed by the SDO by order dated 21 July 2016 and Mutation Entry No.7245 was set

aside and the proceedings were remanded for holding fresh enquiry before the Tehsildar, Kudal. Petitioner got aggrieved by SDO's order dated 21 July 2016 and filed appeal before the Additional Collector, Sindhudurg under the provisions of Section 247 of the Maharashtra Land Revenue Code, 1966 (**the Code**). The Appeal was however dismissed by the Additional Collector by order dated 23 April 2018. Instead of directly filing a revision against order dated 23 April 2018 before the Additional Commissioner, Petitioner was apparently advised to seek review of order dated 23 April 2018 passed by the Additional Collector. The review application was rejected by order dated 14 August 2018. The Petitioner filed Writ Petition No.473 of 2021 in this Court directly seeking to challenge order dated 23 April 2018 passed by the Additional Collector. Petition was disposed of by granting liberty to the Petitioner to file revision before the Additional Commissioner. Accordingly, Petitioner filed revision under Section 257 of the Code before the Additional Commissioner. However, by the impugned order dated 17 June 2023 Additional Commissioner, has held that he does not have jurisdiction to decide revision application. The only reason for non-entertaining of revision application filed by the Petitioner by the Additional Commissioner was rejection of review application by the Additional Collector by order dated 14 August 2018.

3) In my view, merely because the Petitioner was advised to file a review petition against Additional Collector's order 23 April 2018, the same would not mean that revision

would not lie against order dated 23 April 2018 before the Additional Commissioner. The Additional Collector has merely refused to review his order. This would mean that original order of Collector dated 23 April 2018 would continue to survive. Revision is maintainable against order dated 23 April 2018 before the Additional Commissioner under the provisions of Section 257 of the Code.

4) I have gone through the memorandum of the revision application filed before the Divisional Commissioner. The prayers in the said revision application are not happily worded. However, there appears to be challenge to the Additional Collector's order dated 23 April 2018 in the revision application. The Additional Commissioner ought to have considered the revision application on merits.

5) I accordingly proceed to pass the following order:-

- (i) Petition is accordingly partly allowed
- (ii) Order dated 17 June 2023 passed by the Additional Commissioner is set aside.
- (iii) Revision Application No.344 of 2021 is restored on the file of Additional Commissioner, who shall proceed to decide the same afresh on its own merits.

6) With the above directions, Petition is disposed of.

[SANDEEP V. MARNE, J.]