

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10475 OF 2023

Gangaram Runja Dhikale ... Petitioner
V/s.
The Circle Officer, Madsangvi & Ors. ... Respondents

WITH
INTERIM APPLICATION NO.1416 OF 2025

Devanand Shankar Dhikale ... Applicant
In the matter between
Gangaram Runja Dhikale ... Petitioner
V/s.
The Circle Officer & Ors. ... Respondents

Mr. Pratik Rahade for the petitioner in writ petition.

Mr. Amjith M. Anandhan i/by Rohan Dilip Kaiche for
respondent Nos.5.3 and 5.4.

Ms. Snehal S. Jadhav, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 4, 2025

P.C.:

1. The challenge in this writ petition arises out of an appeal preferred by the petitioner under Section 256 of the Maharashtra Land Revenue Code, 1966 ("MLRC"), which confers appellate jurisdiction over decisions or orders passed by subordinate revenue authorities. The genesis of the dispute lies in proceedings initiated under Section 5 of the Mamlatdars' Courts Act, 1906 ("MCA"),

which empowers the Mamlatdar to adjudicate disputes pertaining to possession, encroachment, or obstruction of agricultural land. A final order under Section 5 of the MCA was rendered against the petitioner in the year 1999, determining the rights of the parties in respect of the subject land. Notably, the statutory scheme under the MCA envisages summary proceedings aimed at preventing breaches of peace, with remedies under the MLRC being confined to challenges against conclusive orders, not interlocutory steps.

2. Owing to the petitioner's persistent obstruction in complying with the 1999 order, the respondents were compelled to seek its enforcement by filing an application for execution under the provisions of the MCA. The executing officer, in furtherance of such proceedings, issued a show-cause notice to the petitioner, directing him to explain non-compliance. It is this show-cause notice that the petitioner erroneously sought to impugn in an appeal under Section 256 of the MLRC. A bare perusal of Section 256 reveals that the provision exclusively contemplates appeals against "decisions" or "orders" that attain finality or determine substantive rights. A show-cause notice, being a procedural step in execution proceedings and devoid of any conclusive determination, does not qualify as an appealable "order" within the ambit of Section 256. Consequently, the appellate authority correctly held the appeal to be non-maintainable in limine and vacated the ad-interim relief granted earlier. This Court finds no infirmity in the appellate authority's reasoning, as the impugned order aligns with statutory intent. Thus, judicial restraint is warranted, and no interference is warranted under Article 226 of

the Constitution.

3. Nonetheless, in the interests of justice, it is explicitly clarified that the dismissal of this writ petition shall not operate as a *res judicata* or estoppel against the petitioner's right to pursue remedies available under general law. The petitioner retains the liberty to institute a civil suit under Section 9 of the Code of Civil Procedure, 1908, to agitate substantive questions of title, possession, or any other rights over the disputed property. Such a suit shall be adjudicated on its own merits, uninfluenced by the summary findings recorded in the MCA proceedings. The civil court shall independently evaluate both factual and legal aspects, including the validity of the 1999 order, should the petitioner elect to challenge it in such proceedings.

4. With this clarification, the writ petition stands disposed of. No order as to costs.

(AMIT BORKAR, J.)