



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 556 OF 2024

Balu s/o Baliram Sonone

.Vs.

Additional Commissioner, Amravati and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr S.S. Dhengale, Advocate for the petitioner.

Mr H.R. Dhumale, AGP respondent Nos. 1 to 3/State.

Mr. S.D. Chande, Advocate for respondent Nos. 4 and 5.

CORAM : SIDDHESHWAR .S. THOMBRE, J.

DATE : 14.10.2025

Heard Mr. S.S. Dhengale, learned counsel for the petitioner, Mr. H.R. Dhumale, learned AGP for State and Mr. S.D. Chande, learned counsel for respondent Nos. 4 and 5.

2. The short controversy that arose in the present writ petition is whether the order dated 15.06.2022 passed by the Additional Collector under Section 247 of the Maharashtra Land Revenue Code, 1966 as well as appeal entertained by the Additional Divisional Commissioner are maintainable.

3. Learned counsel for the petitioner invited my attention to Section 35 of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (for short, "The Fragmentation Act"). The Sub Divisional Officer passed an order dated 31.05.2010, which, according to the

petitioner is appealable only under Section 35 of the Fragmentation Act. Instead of availing remedy under Section 35, respondent Nos.4 and 5 challenged the same by filing appeal under Section 247 of the Maharashtra Land Revenue Code which came to be allowed. Against that order under Section 247 an appeal was filed before the Additional Divisional Commissioner.

4. I have gone through the provisions of the Fragmentation Act and it is clear that power to entertain appeal against the order of Sub Divisional Officer lie under Section 35 of said Act. The Additional Collector and Additional Divisional Commissioner are not empowered under Section 247 of the Maharashtra Land Revenue Code to consider the matter. In view thereof, both the orders are liable to be set aside.

5. Learned counsel for the respondent Nos.4 and 5 would submit that after the order was passed by the Sub Divisional Officer, an appeal was filed under Section 35 of the Act and it was allowed. Learned counsel submits that petitioner has not challenged the said order.

6. Therefore, in view thereof, petition is partly allowed. The orders dated 15.06.2022 passed by the Additional Collector and order dated 29.12.2023 passed by Additional Divisional Commissioner are set aside. Petitioner is at liberty to challenge the order passed by the Additional Divisional Commissioner in appeal/revision No.194/PFG/10/Rahit/Washim/2022 under Section 35 of

the Fragmentation Act.

7. In view thereof, the writ petition stands disposed of. No order as to costs.

(SIDDHESHWAR .S. THOMBRE, J.)

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