



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

WRIT PETITION NO. 5472 OF 2019

- 1) Smt.Radha w/o Sanjay Talapelliwar
age: 47 years, Occ: Agriculturist
- 2) Shri Sanjay Naraynrao Talapelliwar
age: 49 years, Occ: Service
Both R/o State Bank Colony, Sarni,
Tahsil: Sarni, District: Betul, Madhya
Pradesh

.. Petitioners

Versus

- 1) Ashok Tukdu Dhengre,
age : major, Occ : Agriculturist
- 2) Bhaurao Tukdu Dhengre,
age : major, Occ : Agriculturist
- 3) Smt. Leelabai Wasudeo Dhengre,
age: major, Occ: not known
- 4) Anupama Haribhau Dhengre,
age : major, Occ : Agriculturist
All 1 to 4 R/o Deodi (Gujar),
Post : Butibori, Tahsil and District
Nagpur
- 5) The Naib-Tahsildar, Umred
Office of Tahsildar, Umred,
Maharashtra
- 6) The Residence Deputy Collector,
Nagpur

.. Respondents

Mr. A.S.Shukla, Advocate for Petitioners.

Mr. U.K.Bisen, Advocate for respondent Nos.1 to 4.

Mr. S.V.Narale, Addl.G.P. for respondent Nos.5 & 6.

CORAM : ABHAY J. MANTRI, J.
DATED : JANUARY 07, 2025

ORAL JUDGMENT

Rule. Rule is made returnable forthwith. Heard finally, with the consent of the learned counsel, appearing for the parties.

(2) The petitioners are challenging the orders dated 17/05/2019 and 29/06/2019 passed by respondent No.6, Deputy Collector, Nagpur, which dismissed the revision preferred by the petitioners and their subsequent application for restoration of revision.

(3) Mr. Shukla, learned Counsel for the petitioners, drew my attention to the impugned order dated 17/05/2019 and submitted that respondent No.6, Deputy Collector, without hearing the parties, disposed of the revision on merit instead of dismissing in default. Hence, he has prayed to set aside the order. He also drew my attention to the subsequent order dated 29/06/2019, passed by the Deputy Collector on the application for restoration of the revision.

(4) Perused both the orders. Prima facie, it seems that the respondent No.6 Deputy Collector, without hearing the parties, passed a cryptic order, "***closed the revision proceedings***", and rejected the

application for review of the said order/restoration of the revision.

(5) Respondent No.6, by filing a reply, contended that "*if this Court remands the matter in question to decide the same afresh as per law by setting aside both the impugned orders as communicated to the petitioners by communication dated 29/06/2019, then respondent No.6 shall decide the matter as per law provided that both the parties shall co-operate to answering respondent No.6*".

(6) Learned Counsel for respondent Nos.1 to 4 has given no objection to the prayer made by the petitioners to remand the matter for fresh consideration.

(7) In the aforesaid backdrop, it seems that the passing of the order by respondent No.6 Deputy Collector dated 17/05/2019 is contrary to the settled position of law, as the same was passed without hearing the parties and determining the real controversy between the parties. Moreover, it appears that, by passing an order dated 17/05/2019, the Deputy Collector "Closed the proceedings" instead of deciding the revision on merit, which is improper. In such an eventuality, the respondent No.6 Deputy Collector, at the most, either passes an order for dismissal in default or, after hearing the parties, decides the same on merit. However, the impugned order dated

17/05/2019 does not reflect the same, but it only denotes that the revision proceedings were closed/filed. The said order is not sustainable in the eyes of the law; therefore, in my view, it would be appropriate to quash and set aside the same.

(8) The learned Counsel for the petitioner and learned Counsel for respondent Nos.1 to 4 requested to direct the Authority to decide the revision expeditiously. Also submitted to give the parties a fixed date to appear before the authority.

(9) In the wake of the above, the writ petition is allowed. The impugned orders dated 17/05/2019 and 29/06/2019 are quashed and set aside. The proceedings before respondent No.6 Deputy Collector bearing No.Appeal/Revi.No.07 MCA-23/2018-19 are restored to their original stage as of 17/05/2019 for hearing of the said revision.

(10) The respondent No.6 Deputy Collector is directed to decide the matter as expeditiously as possible and, in any case, within a period of '**six months**' from the date of appearance of the parties before him.

(11) The parties are directed to appear before the Deputy Collector on **20/01/2025**.

Rule is made absolute in the above terms. No costs.

Inform the concerned authority/respondent No.6
accordingly.

[ABHAY J. MANTRI, J.]

KOLHE