

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11931 OF 2014

Ishwar Hukumichand Sanghvi ..PETITIONER

VERSUS

Vinayak Govindrao Marathe & ors. ..RESPONDENTS

Mr Pushkar S. Shendurnikar, Advocate for petitioner

CORAM : N.W. SAMBRE, J.

DATE : 12th January, 2015

ORAL ORDER

The present petition is by the defendant before the Court of Mamlatdar, Pachora, in Wahiwat Case No.10 of 2013. The Mamlatdar, by an order dated 15th October, 2013, has dismissed the claim made by the respondent no.1 herein, which has prompted him to prefer revision before the Sub-Divisional Officer, Pachora.

2. The Sub-Divisional Officer, having noticed that the pleadings in its true spirit were not taken on record, has framed seven points which were not considered and dealt with by the Mamlatdar in his order and as such

remanded the matter back for passing fresh order.

3. Learned Counsel for the petitioner strenuously urged that the Mamlatdar, who is a fact finding authority, has personally carried out the spot inspection and after recording his satisfaction, has rejected the claim of respondent no.1. He further urged that points no.1 to 7, which according to the revisional authority are not looked into by the Mamlatdar, are not at all germane to the cause. He urged that the findings recorded by the Mamlatdar are in tune with the pleadings of the parties, evidence and factual position as is existing on the spot. According to him, while exercising revisional jurisdiction, the Sub-Divisional Officer ought not to have interfered and passed an order of remand.

4. Perusal of the order passed by the revisional authority reflects entire considerations which were canvassed before the Mamlatdar. The revisional authority, having recorded seven issues on which the Mamlatdar has not applied his mind, in my opinion, has rightly passed an order of remand. Upon an order of remand, the petitioner herein, who is respondent before the Mamlatdar, will get an appropriate opportunity to put-forth his case on the said issues.

5. In that view of the matter, no case for interference in extra-ordinary jurisdiction is made out. Writ Petition, therefore, stands rejected with no order as to costs.

(N.W. SAMBRE, J.)

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