

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2455 OF 2016

1]	Mr. Ramdas Ganpat Gade	]
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2]	Mr. Yuvraj Ganpat Gade	]
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3]	Mr. Kailas Ganpat Gade	]
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4]	Mr. Baban Ganpat Gade	]
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5]	Sou. Kalpana Dattatraya Satav	]
		]
6]	Smt. Gitabai Ganpat Gade	]
		]
	All res. Of Kharpudi Khurd,	]
	Post Shirol, Taluka Khed	]
	District Pune 410505	]..... Petitioners.

versus

1]	State of Maharashtra	]
	Through Officer on Special Duty	]
	Mantralaya, Mumbai,	]
	(Summons to be served upon	]
	The learned AGP for the State	]
	of Maharashtra)	]
		]
2]	Smt. Chandrabhaga Rangnath Gade	]
		]
3]	Mr. Mohan Baban Gade	]
		]
4]	Mr. Hanumant Baban Gade	]
		]
5]	Mr. Vilas Baban Gade	]
		]
	All res. Of Kharpudi Khurd	]
	Post Shirol, Taluka Khed,	]
	District Pune 410505.	]..... Respondents.

Mr. U P Warunjikar for the Petitioners.
Ms. Aparna Vhatkar AGP for the Respondent No.1.
Mr. A B Kadam for the Respondent Nos.2 to 5.

CORAM : R. M. SAVANT, J.
DATE : 14th March 2016

ORAL JUDGMENT

1 Rule, considering the challenge raised in the above Petition, made returnable forthwith and heard.

2 The writ jurisdiction of this Court is invoked against the order dated 16/02/2016 passed by the Principal Secretary and Officer on Special Duty (Appeal and Revision) by which order the Revision Application filed by the Respondent Nos.2 to 5 herein came to be allowed and resultantly, the orders mentioned in clause (2) of the operative part of the impugned order were set aside. Amongst the said orders are the order dated 19/03/2015 passed by the Tahsildar, Khed and the order dated 19/05/2015 passed by the Sub Divisional Officer, Khed in RTS/Revision/50/2. The said orders relate to the proceedings filed under Section 5 of the Mamlatdar's Court Act 1908. The orders set aside in the first part of clause (2) are the order dated 11/09/2008 passed by the Tahsildar, Khed and the order dated 31/10/2009 passed by the Sub Divisional Officer, Junnar and the order dated 31/12/2012 passed by the Additional Commissioner, Pune Division, Pune. The said orders have been passed in the proceedings under Section 143 of the Maharashtra Land Revenue Code which were initiated by the Petitioners for being given a road through

Gat No.354 of village Kharpudi Khurd, Tal.Khed, Dist. Pune.

3 The question therefore that is posed is whether the Officer on Special Duty could have set aside the orders dated 19/03/2015 and 19/05/2015 when the challenge before him was not to the said orders and that the said orders were passed under a different statute i.e. the Mamlatdar's Court Act.

4 The learned counsel appearing for the Respondents i.e. learned AGP for the Respondent No.1 and the learned counsel Shri Kadam for the Respondent Nos.2 to 5 were not in a position to justify the setting aside of the said two orders. Since consideration by the Officer on Special Duty can be said to have been vitiated in view of the fact that he has chosen to consider the merits of the said two orders i.e. the order dated 19/03/2015 and the order dated 19/05/2015 In my view, the impugned order dated 16/02/2016 would have to be quashed and set aside and the matter would have to be relegated back to the Officer on Special Duty for a de-novo consideration of the Revision Application. The impugned order dated 16/02/2016 is accordingly quashed and set aside and the matter is relegated back to the Officer on Special Duty for a de-novo consideration of the Revision Application. On remand the parties to appear before the Officer on Special Duty on 05/04/2016 at 3.00 pm who would thereafter dispose of the said Revision Application latest by

10/06/2016. Needless to state that the Revision Application would be tried on its own merits and in accordance with law. The contention of the parties are kept open for being urged before the Officer on Special Duty. The above Writ Petition is allowed to the aforesaid extent. Rule is accordingly made absolute in the aforesaid terms with parties to bear their respective costs.

[R.M.SAVANT, J]