

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

WRIT PETITION NO.2692 OF 2016

(RAJENDRA NAGORAO HENDVE & ANR...VS..THE SUB-DIVISIONAL OFFICER, YAVATMAL & 3 OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : JULY 25, 2016.

Shri A.K. Choube, advocate for the petitioner, Shri F.T. Mirza, advocate for the respondent Nos. 3 and 4 and Ms H.N. Jaipurkar, A.G.P. for the respondent Nos. 1 and 2.

The order passed by the Tahsildar under the Mamalatdars' Courts Act, 1906 was challenged by the petitioner in revision under Section 23(2) of the Mamalatdars' Courts Act. The petitioner had prayed for interim order in the revision. The Sub-Divisional Officer by the order dated 5th April, 2016 granted interim order in favour of the petitioner and stayed the effect, operation and execution of the order passed by the Tahsildar. By the impugned order dated 11th April, 2016 the Sub-Divisional Officer vacated the interim order granted on 5th April, 2016.

Apart from the fact that the Sub-Divisional Officer could not have entertained the revision under Section 23(2) of the Mamalatdars' Courts Act, 1906 as laid down in the judgment given in the case of *Bija Vs. Kisan*, reported in **2015(1) Mh.L.J. 282**, Shri F.T. Mirza, advocate for the respondent Nos. 3 and 4 has pointed out the order passed by

the Sub-Divisional Officer on 27th April, 2016 by which the revision application is disposed and therefore, the challenges raised in the present petition do not survive.

At this stage, advocate for the petitioners has pointed out the affidavit filed before this Court on 21st July, 2016 and has submitted that the Sub-Divisional Officer has committed gross irregularities and illegalities in conducting the proceedings of revision application. It is further submitted that the interim order granted by this Court on 5th May, 2016 is also flouted not only by the respondent Nos. 3 and 4 but also by the Sub-Divisional Officer and the Sub-Divisional Officer has tampered with the record of the revision proceedings to overreach the interim order passed by this Court on 5th May, 2016. The submissions made on behalf of the petitioners relying on the above affidavit are misconceived inasmuch as the petitioner cannot raise such challenges in the present petition which, because of the subsequent events, has become infructuous.

The petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE

CERTIFICATE

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