

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

WRIT PETITION NO.4282/2014

1. Sk. Jannumiya Sk. Dadamiya,
aged about 70 Yrs., Occu. Agriculturist.
2. Sk. Yasinsha Jannusha,
aged about 26 Yrs., Occu. Agriculturist.
3. Sk. Rabbani Sk. Nawab,
aged about 60 Yrs., Occu. Agriculturist.
4. Sk. Husensha Alisha,
aged about 24 Yrs., Occu. Agriculturist.
5. Sk. Habib Sk. Pyar Mohamad,
aged about 70 Yrs., Occu. Agriculturist.
6. Sk. Mobin Sk. Jannumiya,
aged about 33 Yrs., Occu. Agriculturist.

All R/o Sawad, Tq. Risod,
Distt. Washim.

..Petitioners.

..Versus..

1. Ashokprasad Bankatprasad Tiwari,
aged about 55 Yrs.
2. Gopalprasad Girdharprasad Pande,
aged 55 Yrs.
3. Kailashprasad Govindprasad Pande,
aged 52 Yrs.
4. Santoshprasad Dwarkaprasad Pande,
aged 45 Yrs.

5. Vishnuprasad Dwarkaprasad Pande,
aged 42 Yrs.
6. Gajanprasad Dwarkaprasad Pande,
aged 43 Yrs.
7. Tukaram Ramchandra Thorat,
aged 40 Yrs.
8. Shamaprasad Bankatprasad Tiwari,
aged 70 Yrs.
9. Shamaprasad Bankatprasad Tiwari,
aged 42 Yrs.
10. Bankatprasad Pahadsingh Tiwari,
aged 80 Yrs.

All R/o Sawad, Tq. Risod,
Distt. Washim.

11. Datta Narayan Naikwade,
aged about adult, R/o Pawar Wadi,
Risod, Tq. Risod, Distt. Washim.
12. The Tahsildar, Risod,
Tah. Risod, Distt. Washim.
13. The Sub-Divisional Officer,
Washim, Tah. & Distt. Washim.

..Respondents.

Shri S.D. Chande, Advocate for the petitioners.

Shri J.K. Matala Advocate h/f Shri S.R. Deshpande, Advocate for respondents 1 to 10.

Ms. R.A. Deshpande, A.G.P. for respondents 12 and 13.

CORAM : Z.A. HAQ, J.

DATE : 4.1.2016

ORAL JUDGMENT

1. Heard Shri S.G. Chande, advocate for the petitioners, Shri J.K. Matale advocate h/f Shri S.R. Deshpande, advocate for the respondents 1 to 10 and Ms. R.A. Deshpande, A.G.P. for respondents 12 and 13.

2. The petitioners have challenged the order passed by the Sub-Divisional Officer exercising the revisional powers under Section 23 of the Mamlatdars' Courts Act, 1906. Shri Chande, advocate for the petitioners relying on the judgment given by this Court in the case of *Bija s/o Maroti Hatwar V/s. Kisan s/o Chirkut Padole and another* reported in **2015(1) Mh.L.J. 282** has submitted that the Sub-Divisional Officer has no authority to decide the revision under Section 23(2A) of the Mamlatdars' Courts Act, 1906. Considering the proposition of law laid down in the above judgment, the impugned order passed by the Sub-Divisional Officer is unsustainable and has to be set aside.

3. Hence, the following order:

- (i) The impugned order is set aside.
- (ii) The matter is remitted to the Collector, Washim.
- (iii) The Collector may hear and decide the revision himself or may make it over to the competent officer authorized to decide the revision application as per the provisions

of Section 23(2A) of the Mamlatdars' Courts Act, 1906.

The petitioners and the respondents 1 to 10 undertake to appear before the Collector, Washim on 10th February, 2016 at 11 a.m. and abide by the further instructions/orders in the matter.

(iv) The Collector, Washim shall issue notice to respondent no.11 - Shri Datta Narayan Naikwade.

(v) Rule is made absolute in the above terms.

In the circumstances, the parties to bear their own costs.

C.A.W. NO.2399/2014.

In view of the disposal of the petition, the application praying for time to file certified copy of the order passed by the Tahsildar, Risod does not survive and is disposed of accordingly.

JUDGE

Tambaskar.