

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 2408 OF 2017

NARSINH JAYWANT DESHMUKH AND OTHERS  
VERSUS  
THE SUB DIVISIONAL OFFICER AHMEDNAGAR AND OTHERS

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Advocate for Petitioners : Shri Aghav Avinash D.  
AGP for Respondents 1 & 2 : Shri Tambe S.K.  
Advocate for Respondent 3 : Shri Nangare Prashant R.

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CORAM : RAVINDRA V. GHUGE, J.  
Dated: August 21, 2017  
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PER COURT :-

1. The petitioners are aggrieved by the impugned order dated 30.9.2016 passed by the Sub Divisional Officer (SDO), Karjat, allowing the RTS Revision Application No.29 of 2016.

2. I have heard the learned Advocates for the respective sides.

3. There is no dispute that the order dated 30.1.2016 was passed by the Tahsildar, Karjat in Wahiwat Case No.9 of 2014, under the Mamalatdar Courts Act, 1906 ("the 1906 Act").

4. This Court in the matter of Bija Maroti Hatwar Vs. Kisan Chirkut Padole [2015 (1) Mh.L.J. 282] and in Writ Petition

No.8769 of 2016 [Sandip Gopinath Rahane Vs.State of Maharashtra], has taken a view that when an order is passed by the Tahsildar, under Section 5(2) of the 1906 Act, in a Revision the SDO would have no jurisdiction under Section 13(4) read with Section 23(2A) to entertain a Revision Petition against the order passed by the Tahsildar and such delegated powers by the Collector are vested in the Assistant Collector or the Deputy Collector, subordinate to the Collector. Such delegation of power to the SDO is impermissible.

5. Considering the above, this petition is allowed. The impugned order dated 30.9.2016 is quashed and set aside. Learned counsel for respondent No.3 submits that the Revision Petition be remanded to the the Additional Collector, Ahmednagar. The litigating sides are agreeable to appear before the said authority on a given date.

6. Considering the above, RTS Revision Application No.29 of 2016 shall be remitted to the office of the Additional Collector, Ahmednagar. The litigating sides are agreeable to appear before the Additional Collector, Ahmednagar on 15.9.2017 at 3.00 pm. Formal notices need not be issued.

7. Needless to state, the parties shall cooperate with the Additional Collector in the said proceedings and the Additional Collector would decide the same on its own merits, by considering the contentions of the litigating sides, preferably on/or before 15.12.2017.

( RAVINDRA V. GHUGE, J. )

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