

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

24 WRIT PETITION NO. 1957 OF 2016

PRATAP BHAURAO BAIS AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Gangakhedkar Shailendra S
AGP for Respondent Nos. 1 to 3: Mr. D.S. Jape Ansinghkar
Advocate for Respondent No.4 : Mr. K.M. Nagarkar

...
CORAM : RAVINDRA V. GHUGE, J.
DATED : 18th DECEMBER, 2017.

PER COURT:-

1. The Petitioners are aggrieved by the order dated 05.05.2015 passed by the Sub-Divisional Officer Biloli, by which the Revision filed by the Petitioners under Section 23 (2) of the Mamlatdar's Courts Act, 1906 (for short "the MC Act") has been held to be untenable on the ground that the Sub Divisional Officer (SDO) has no powers.

2. This Court has delivered an extensive order on 13.10.2017 in the matter of Kishiram Asaram Ghadge & Others Vs. Ramdas Bhanudas Pund & Another, and other connected matters concluding that, the Deputy Collector or the Assistant Collector exercising jurisdiction as a Sub Divisional Officer (SDO) under the Maharashtra Land Revenue Code (for short "The MLR Code") 1966, would not be exercising jurisdiction as a Sub Divisional Officer (SDO) under Section 23 (2) of the MC Act since he would be, for all purposes, the Revisional Authority as a Deputy

Collector or Assistant Collector under Section 23 of the MC Act, 1906.

3. It is pointed out that, the District Collector Nanded by order dated 02.11.2010 has concluded that, the Assistant Collector or the Deputy Collector, who otherwise exercise jurisdiction as SDO under the MLR Code, will be the Competent Authority under Section 23 (2) of the MC Act for entertaining Revision Petitions against the orders passed by the Tehsildar under Section 5 (2) of the MC Act, 1906.

4. Considering the above, this Writ Petition is partly allowed. Order dated 05.05.2015 is quashed and set aside. Learned advocates expressed an apprehension that, the Revision filed by the Petitioners may have been disposed of by the concerned SDO on the presumption that, he has no powers. Considering these aspects, I am issuing the following directions:-

a) The revision filed by the Petitioners before the Deputy Collector / Assistant Collector, Biloli, who is ex-officio SDO under the MLR Code, if not already disposed of, shall be decided on its merits after the appearance of the litigating sides, within a period of four months and preferably on or before the 21.04.2018.

b) If the said revision is disposed off, it shall stand restored and shall be decided as per the direction in clause (a) above.

(3)

- c) The litigating sides agree to appear before the said authority on 01.01.2018 at 3.00 p.m.
- d) A copy of the order of this Court in the matter of Kishiram Asaram Ghadge & Ors. Vs. Ramdas Bhanudas Pund & Another, and other connected matters shall be placed before the said authority to appraise it of the judicial pronouncement with regard to its jurisdiction in these matters.
- e) Formal notice need not be issued to the litigating sides considering the above statements.
- f) The interim protection granted by this Court on 22.02.2018 shall continue to operate till 21.04.2018 or till the decision in the said proceedings, whichever is earlier.

(RAVINDRA V. GHUGE, J.)