

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2648 OF 2017

Shri. Shivaji Haribhau Bhosale and others ..Petitioners
Versus

Shri. Bala Tukaram Bhosale and others ..Respondents

Mrs. Anjali R. S. Baxi for the Petitioners.
Mr. S. H. Kankal, AGP for the Respondent Nos.13.

CORAM : R. M. SAVANT, J.
DATE : 20th MARCH, 2017

PC.

1 The order dated 30.01.2017 passed by the Sub Divisional Officer, Daund-Purandar, is taken exception to by way of the above Petition. By the said order, the Appeal filed by the Respondent No.1 herein came to be allowed and resultantly, the order dated 12.05.2016 passed by the Tahsildar came to be set aside and the matter came to be remanded back to the Tahsildar for a de-novo consideration of the application in terms of the directions contained in the impugned order. The directions contained in the impugned order are inter-alia to the effect that the application filed by the Petitioners herein should be treated as an application under Section 8 and Section 9 of the Mamlatdar's Court Act, 1908 and an enquiry be made on the said basis. The Tahsildar has been directed to conduct the de-novo enquiry after giving proper

opportunity to the parties. One of the reasons which has weighed with the Sub Divisional Officer is the fact that the Petitioners have in their application under Section 5 of the said Act have not stated the date when the alleged obstruction was caused by the Respondent Nos.1 to 10. In my view, having regard to the course of action that is now directed by the Sub Divisional Officer to be followed and the reasons therefor, no exception could be taken to the impugned order. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]