

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 525 OF 2017

Shri. Janardan B. Kubal and ors. .. Applicants
vs.
Shri. Makarand S. Takakar and ors. .. Respondents

Mr. A.S. Khandeparkar i/b M/s. Khandeparkar and Associates for the Applicants.
Mr. A.R. Patil for Respondent Nos.1 and 2.

CORAM : M. S. SONAK, J.
DATE : 26 SEPTEMBER 2017.

P.C. :-

- 1] Heard learned counsel for the parties.
- 2] Rule. Rule is made returnable forthwith with the consent of and at the request of learned counsel for the parties.
- 3] The challenge in this petition is to the order dated 20th May 2017 made by the Additional Collector, Sindhudurg in the exercise of revisional powers under Section 23(2) of the Mamlatdars' Courts Act 1906 (said Act) .
- 4] The Mamlatdar (Tahsildar) by order dated 3rd January 2017, relying upon a plan produced by the respondents - applicants granted some certain reliefs under the said Act to the respondents.

The plan is at page 31 of the paperbook and is stated to be an official plan prepared by the Survey Authorities.

5] The applicants, applied to Survey Authorities to furnish the information as regards the pathway, which is depicted on the plan at page 31. This was during the pendency of the revision before the Revisional Authority against the order dated 3rd January 2017. The Survey Authorities by communication dated 6th February 2017, have expressed certain reservations as to the manner in which the pathway is depicted upon the plan. The response of the Survey Authorities dated 6th February 2017 is at Exhibit-R (at page 75 and 76).

6] The Revisional Authority, by the impugned order dated 20th May 2017 has dismissed the petitioners' revision application. From perusal of the impugned order, it is seen that even there is no reference to the communication dated 6th February 2017, much less, any consideration of said document. Since, the Mamlatdar's original order dated 3rd January 2017 was *inter alia*, premised by the plan produced by the respondents and since the Survey Authorities have themselves expressed some reservations about the plan, minimum

that was expected that the Revisional Authority shall advert to this aspect of the matter, including in particular, the communication dated 6th February 2017. Since this has not been done, the impugned order dated 20th May 2017 is required to be set aside and is hereby set aside.

7] The matter is remanded to the Revisional Authority for reconsideration of the respondent's application in accordance with law and on its own merits, by taking into consideration the material produced by both the parties and by affording opportunity of hearing to both parties.

8] The parties to appear before the Revisional Authority on 10th October 2017 at 11.00 a.m. and produce an authenticated copy of this order.

9] It is made clear that this Court has not adverted to the merits of the matter and therefore all contentions of all parties are kept open for determination by the Revisional Authority in accordance with law and on its own merits.

10] The Revisional Authority shall endeavour to dispose of the revision application as expeditiously as possible.

11] With aforesaid directions, this civil revision application is disposed of.

12] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)