

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

WRIT PETITION NO.8215 OF 2017

Shindgonda Bharmu Benale and anr. ... Petitioners
Vs.
State of Maharashtra and ors. ... Respondents

Mr.Dhairyasheel Sutar for the Petitioners.
Mr.S.H.Kankal, AGP for the State-Respondent Nos.1 to 3.
Mr.Manoj A. Patil for Respondent Nos.4 to 9.

**CORAM : R.D.DHANUKA, J.
DATE : APRIL 26, 2018.**

P.C. :

1. Rule.
2. Learned counsel, Mr.Manoj A. Patil waives service for the Respondent Nos.4 to 9. Mr.S.H.Kankal, learned AGP waives service for Respondent Nos.1 to 3. By consent of the parties, Petition is heard forthwith.
3. By this Petition filed under Article 227 of the Constitution of India, the petitioner have impugned the order dated 10th April

2017, passed by the learned Sub-Divisional Officer, Ichalkaranji, in the Revision Application No.306 of 2016, thereby allowing the said revision application filed by the Respondent Nos.4 to 9 and setting aside the order passed by learned Tahasildar under Section 23(2A) of Mamlatdar's Courts Act, 1906. In my view the learned Sub-Divisional Officer has no jurisdiction to decide the said Revision Application No.306 of 2016 under Section 23(2A) of Mamlatdar's Courts Act, 1906. Hence, I pass the following order:-

a. The impugned order dated 10th April 2017, passed by the Sub-Divisional Officer, Ichalkaranji in Revision Application No.306 of 2016 is set aside.

b. The Revision Application No. 306 of 2016 is restored to file before the learned Additional Collector, Kolhapur, for hearing and final disposal in accordance with law and without being influenced by the observations made and the conclusion drawn in the impugned order dated 10th April 2017, passed by the learned Sub-Divisional Officer, Ichalkaranji. Learned Additional Collector, Kolhapur himself decide the said revision application or the same to be decided by the authority referred in Section 23(2A) of

the Mamlatdar's Courts Act 1906, expeditiously and not later than one month from the date of the first meeting.

c. The parties are directed to remain present before the learned Collector, Kolhapur on 12th June, 2018 at 3.00 p.m. If the learned Additional Collector has delegated his powers to any of the officers recorded under Section 23(2A) of the Mamlatdar's Courts Act, the parties shall appear before such officer. The Petitioner is directed to convey this order to the learned Additional Collector, Kolhapur and the learned Sub-Divisional Officer for compliance. The Petitioner is also directed to convey this order to the Respondent Nos.1 to 9.

d. Respondent Nos.4 to 9 are at liberty to apply for interim relief, if any, before learned Additional Collector. Such application for interim relief shall be decided afresh without being influenced by the observations made and the conclusion drawn in the order dated 10th April 2017, or of the fact that the said Sub-Divisional Officer had granted the order of status quo.

e. Rule is made absolute in aforesaid terms. No order as to costs.

f. All the parties to act on the authenticated copy of this order.

(R.D.DHANUKA, J.)