

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

**WRIT PETITION NO.8807 OF 2017**

Aaba Rajaram Waghmode & Ors. .. Petitioners  
Vs.  
Eknath Namdev Waghmode & Ors. .. Respondents

Mr.Balwant V.Salunkhe for the petitioners.  
Mr.V.S.Talkute for the respondent nos.1 to 6.  
Ms.K.N.Solunke, AGP for the respondent nos.9 & 10-State.

**CORAM : R.D. DHANUKA, J.**  
**DATE : 6<sup>th</sup> March 2018**

*P.C.:*

Rule. Learned counsel appearing for the respondent nos.1 to 6 waives service. Learned AGP appearing for the respondent nos.9 & 10 waives service. The petition is heard finally by consent of the parties.

2. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 29<sup>th</sup> June 2017 passed by the learned Sub-Divisional Officer, Malshiras, Solapur in Revision No.3 of 2017.

3. In the catena of decisions rendered by this Court, this Court has taken a view that the learned Sub-Divisional Officer is not empowered to decide the revision application under Section 23(2A) of the Mamlatdars Courts Act, 1906. The learned Collector himself shall hear the application or the same shall be heard by one of the officer who has been delegated with such powers under Section 23(2A) of the Mamlatdars Courts Act, 1906. The Sub-Divisional Officer is not one of the officers referred in Section 23(2A) of the Mamlatdars Courts

Act,1906. The impugned order thus passed by the Sub-Divisional Officer is without jurisdiction and is accordingly set aside.

4. I therefore pass the following order :-

- (i) The impugned order dated 29<sup>th</sup> June 2017 passed by the Sub-Divisional Officer is set aside.
- (ii) Revision No.3 of 2017 is restored to file before the learned Collector, Solapur. The learned Collector, Solapur shall dispose of the said revision application itself or to delegate the powers to one of the officers prescribed in Section 23(2A) of the Mamlatdars Courts Act,1906.
- (iii) The concerned officer who is empowered to decide the revision shall decide the revision without being influenced by the reasons recorded and conclusion drawn in the impugned order and in accordance with law expeditiously.
- (iv) Parties are directed to appear before the learned Collector, Solapur on 21<sup>st</sup> March 2018 at 3.00 p.m.
- (v) Rule is made absolute in aforesaid terms. No order as to costs.
- (vi) The Collector, Solapur as well as Parties to act on the authenticated copy of this order.

***R.D. DHANUKA, J.***