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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 17 OF 2016

Narayan Laxman Chavan

...Applicant

V/s.

Manik Manohar Mane & Ors.

...Respondents

Mr Anand S. Kulkarni for Applicant.
Mr. A.M. Kulkarni for Respondents.

CORAM : R.D. DHANUKA, J.
DATE : 14TH MARCH, 2018.

P.C. :-

1. Admit. Mr. A.M. Kulkarni waives service for the respondents.
2. By this application, the applicant has impugned the order dated 30th September, 2015 passed by the Sub Divisional Officer in Revision No.12 of 2014.
3. This Court in case of Vilas Gajanan Bhujbal and Ors Vs. Pushpa Chandrakant Dabhade in Writ Petition No. 11595 of 2014 in judgment delivered on 11th December, 2017 has held that the Sub Divisional Officer has no power to decide the revision application under Section 23(2A) of the Mamlatdar's Courts Act, 1906. The said judgment of this Court applies to the facts of this case. I am respectfully bound by the said judgment.

4. The learned counsel for the applicant further produces a copy of the report of the Circle Officer and also Panchnama recorded by the Circle Officer. He submits that order passed by the Sub Divisional Officer is implemented by the Circle Officer.

5. I therefore pass the following order:

I) Impugned order dated 30th September 2015 passed by the learned Sub Divisional Officer No.1 Solapur in Revision No. 12 of 2014 is set aside. Revision No. 12 of 2014 is restored to file before the learned Collector, Solapur. The learned Collector shall himself hear the said revision application or the same shall be heard by one of the officer referred under Section 23(2A) of the Mamlatdar's Courts Act, 1906.

II) The learned Sub Divisional Officer shall transmit the papers and proceedings of Revision application No. 12 of 2014 before the learned Collector Solapur within one week from the date of communication of this order. The learned Collector or such officer who is empowered to hear the said revision application under Section 23(2A) of the Mamlatdar's Courts Act, 1906 shall hear the matter afresh and shall decide without being influenced by the observations made and the conclusion drawn in the order dated 30th September, 2013 and in accordance with law. Parties are directed to remain present before the learned Collector Solapur on 28th

March, 2018 at 03.00 p.m. The parties as well as the authorities to act on the authenticated copy of this order.

III) The applicant is entitled to produce the report submitted by the Circle Officer and the panchnama which are produced for consideration of this Court today and will be at liberty to apply for restoration of the possession prior to the date of the report and implementation of the order passed by the learned Sub Divisional Officer dated 30th September, 2015. If any such application is made, the learned Collector or the concerned Officer shall consider the said application on its own merits.

IV) Rule is made absolute in the aforesaid terms. No order as to costs. All contentions of the parties on merits are kept open. The learned Collector Solapur or the concerned officer shall dispose of the revision application within three months from the date of next meeting.

(R.D. DHANUKA, J.)