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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.683 OF 2016

Sudhakar D. Patil

...Applicant

..Ori.Opponent

V/s.

Mahadeo D. Suryavansi & Anr.

...Respondents

..Ori.Applicants

Mr.Anand S. Kulkarni for the Applicant.

Mr.R.B. Kulkarni for the Respondents.

CORAM : R.D. DHANUKA, J.

DATE : 13TH MARCH, 2018.

P.C. :-

1. Admit. Learned counsel for the respondents waive service.

By consent of all parties, the matter is heard finally.

2. By this civil revision application, the applicant has impugned the order dated 3rd July, 2015 passed by the learned Sub-Divisional Officer, Solapur in Revision Application No.46 of 2014 upholding the order dated 16th August, 2014 passed by the learned Tahsildar, South Solapur.

4. The impugned order is passed under section 23(2A) of the Mamlatdars' Courts Act, 1906. This Court in case of **Ramesh Damu Patil vs. Purushottam Umrao Chavan & Ors., 2017(1), Mh.L.J. 818**

has held that the Sub Divisional Officer is not empowered to decide the revision application under section 23(2A) of the Mamlatdars' Courts Act, 1906. The said judgment squarely applies to the facts of this case. In my view, the order passed by the Sub Divisional Officer is thus without jurisdiction and thus deserves to be set aside.

5. I therefore, pass the following order :-

a). The impugned order dated 3rd July, 2015 passed by the Sub Divisional Officer, Solapur South in Revision Application No.46 of 2014 is set aside.

b). The Revision Application No.46 of 2014 is restored to file before the learned Collector, Solapur. The Collector himself shall decide the said revision application or delegate such powers to one of the officers recorded in section 23(2A) of the Mamlatdar's Courts Act, 1906.

c). The learned Sub Divisional Officer-2, Solapur is directed to transmit the papers and proceedings in the said revision application to the learned Collector within one week from the date of communication of this order.

d). Learned Collector himself or such officer who is empowered to decide the said revision application shall decide the matter afresh without being influenced by the observations made and the conclusion drawn in the order dated 3rd July, 2015. The Collector

or such officer, who is having power to decide the said revision application, shall dispose of the same expeditiously and not later than four months from the date of the first meeting. The respondents are also directed to appear before the learned Collector or such officer, who shall hear the said revision application under the provisions of section 23(2A) of the Mamlatdars' Courts Act, 1906, without fail.

e). The parties are directed to remain before the Collector on 23rd March, 2018 at 3:00 p.m. The petitioner is directed to convey this order to the learned Sub Division Officer, Solapur - 2 as well as to the learned Collector, Solapur for compliance.

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

7. All the parties including the authorities to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)