

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.540 OF 2018

Yogesh M. Kulthe & Anr.

...Petitioners

V/s.

Balkrushna R. Khode & Ors.

...Respondents

Mr.Sachin Gite for the Petitioners.

Mr.R.N. Gite for the Respondent No.1.

Mr.S.H. Kankal, A.G.P. for the State – Respondent Nos.7 to 10

CORAM : R.D. DHANUKA, J.

DATE : 1ST MARCH, 2018.

P.C. :-

1. The papers are allowed to be produced at 3:00 p.m.
2. Learned counsel appearing for the petitioners states that the respondent nos.2 to 6 are not the contesting respondents.
3. Rule. Learned counsel for the respondent no.1 waives service. Mr.Kankal, learned A.G.P. waives service for the respondent nos.7 to 10. By consent of parties,the petition is heard finally.
4. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 18th August, 2017 passed by the learned Sub Divisional Officer, Kalwan Division, District Nashik in Vahiwat Revision No.14 of 2016.

5. This Court in case of **Shri Vilas Gajanan Bhujbal & Ors. vs. Sou.Pushpa Chandrakant Dabhade & Ors.** in Writ Petition No.11598 of 2014 delivered the judgment on 11th December, 2017 and has held that the Collector has no power to delegate his powers to the Sub Divisional Officer under section 23 (2A) of the Mamlatdar's Courts Act, 1906. The said judgment squarely applies to the facts of this case.

6. The impugned order dated 18th August, 2017 passed by the learned Sub Divisional Officer, Kalwan Division, District Nashik in Vahiwat Revision No.14 of 2016 is set aside. Vahiwat Revision No.14 of 2016 is restored to file before the learned Collector, Nashik. Learned Collector, Nashik himself shall decide the said Vahiwat Revision or shall delegate the powers to one of the officers referred in section 23(2A) of the Mamlatdar's Courts Act, 1906.

7. Learned Collector or the said officers who is delegated the powers under the said Act shall dispose of the said Vahiwat Revision No.14 of 2016 expeditiously and without being influenced by the observations made and the conclusion drawn in the impugned order dated 18th August, 2017 within a period of six months from the date of communication of this order.

8. Learned Sub Divisional Officer before whom the said Vahiwat Revision was filed, is directed to transmit the papers and

proceedings to the learned Collector's office within one week from the date of communication of this order.

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

(R.D. DHANUKA, J.)