

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

WRIT PETITION NO.3099 OF 2018

Prasad Madhukar Unde (Minor) .. Petitioner
Vs.
Nitin Kurhe & Ors. .. Respondents

Mr.Yogesh N.Davange for the petitioner.

Mr.Vaibhav D. Kadam for the respondent nos.1 to 21.

CORAM : R.D. DHANUKA, J.

DATE : 15th March 2018

P.C.:

. Learned counsel appearing for the petitioner states that the respondents have been served.

2. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 19th January 2018 passed by the learned Sub-Divisional Officer, Nashik in RTS Revision No.57 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 deserves to be set aside.

4. I therefore pass the following order :-

- (i) The impugned order dated 19th January 2017 passed by the Sub-Divisional Officer is set aside.
- (ii) RTS Revision No.57 of 2017 is restored to file before the learned Additional Collector, Nashik. The learned Additional Collector, Nashik 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 learned Additional Collector, Nashik or the concerned officer who is empowered to decide the revision shall decide the said RTS Revision No.57 of 2017 within four months from the date of first meeting and without being influenced by the observations made and conclusion drawn in the impugned order and in accordance with law expeditiously.
- (iv) The Sub-Divisional Officer, Nashik is directed to transmit the papers and proceedings of the said revision to the learned Additional Collector, Nashik.
- (v) Parties are directed to appear before the learned Additional Collector, Nashik on 28th March 2018 at 3.00 p.m.
- (vi) The petitioner as well as the contesting respondents would be at liberty to file written arguments before the authority.
- (vii) Petition is disposed of in aforesaid terms. No order as to costs.
- (viii) The petitioner is directed to convey this order to other respondents who are absent before this Court today for compliance and for remaining present before the learned Additional Collector, Nashik on the appointed date in advance.

(ix) The learned Additional Collector, Nashik as well as Parties to act on the authenticated copy of this order.

R.D. DHANUKA, J.