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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2073 OF 2018

Madhukar S. Pansare	...Petitioner
V/s.	
Tatya D. Pansare & Ors.	...Respondents

Mr.Sushant S. Prabhune for the Petitioner.

Mr.S.H. Kankal, A.G.P. for the State – Respondent No.8.

CORAM : R.D. DHANUKA, J.
DATE : 13TH MARCH, 2018.

P.C. :-

1. Learned counsel for the petitioner tenders affidavit of service and states that the service is complete and all the respondents are served. Affidavit of service is taken on record. None appeared for the respondent nos.1 to 7 when the matter was called out. Learned A.G.P. waives service for the respondent no.8.

2. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the orders dated 23rd January, 2018 passed by the learned Sub-Divisional Officer in Revision Application No.8 of 2017 and the order dated 29th April, 2017 passed by the learned Tahsildar in Application No.2 of 2017.

3. This Court by a judgment and order dated 11th December,

2017 in case of **Shri Vilas Gajanan Bhujbal & Ors. vrs. Sou.Pushpa Chandrakant Dabhade & Ors.** in Writ Petition No.11598 of 2014, has held that the Sub Divisional Officer was not empowered to decide the appeal under section 23(2A) of the Mamlatdar's Courts Act, 1906. In my view, Sub Divisional Officer thus had no jurisdiction to pass an order in the said Revision Application.

4. The impugned order dated 23rd January, 2018 passed by the Sub Divisional Officer is set aside. The Revision Application No.8 of 2017 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 referred in section 23(2A) of the Mamlatdar's Courts Act, 1906.

5. The learned Sub Divisional Officer 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.

6. 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 23rd January, 2018. 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.

7. The parties are directed to remain before the learned Collector, Solapur on 28th March, 2018 at 3:00 p.m. If the learned Additional Collector has delegated his powers to any of the officers recorded under section 23(2A) of the Mamlatdar's Courts Act, the parties shall appear before such officer. The petitioner is directed to convey this order to the learned Collector, Solapur and the learned Sub Divisional Officer for compliance. The petitioner is also directed to convey this order to the respondent nos.1 to 7

8. During the pendency of the revision application before the learned Collector, Solapur, the standing crops, if any, of the petitioners shall not be removed by any of the respondents to this writ petition.

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

10. All the parties to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)