

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3021 OF 2018

Shobha Vitthal Jagtap & Ors.

..... Petitioners

VERSUS

Sudam Mahadeo Jagtap & Ors.

..... Respondents

Mr.Sharad T. Bhosale for the Petitioners.

Mr.A.A.Alaspurkar, A.G.P. (Writ Cell) for the Respondent nos. 6 and 7.

CORAM : R.D. DHANUKA, J.

DATE : 26th MARCH, 2018

P.C.

Rule. Learned counsel appearing for the petitioners states that the respondent nos. 1 to 5 are served. None appeared for the respondent nos. 1 to 5. Learned A.G.P. waives service for the respondent nos.6 and 7. Writ petition is heard finally.

2. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 30th December,2017 passed by the learned Sub Divisional Officer, Madha, Taluka Madha, District Solapur in Revision Application No. 4/B of 2017 under the provisions of Mamlatdar Courts Act, 1906.

3. This court in case of ***Vilas G.Bhujbal & Ors. vs. Sou.Pushpa Chandrakant Dabhade & Ors. in Writ Petition No.11598 of 2014*** dated 11th December, 2017 has held that Sub-Divisional Officer is not authorized to pass any order in the revision application under section

23(2A) of the Mamlatdar Courts Act, 1906. The said judgment applies to the facts of this case. I am bound by the said judgment. In my view the learned Sub-Divisional Officer has no jurisdiction to pass the impugned order.

4. I, therefore, pass the following order :-

(a) The impugned the order dated 30th December,2017 passed by the learned Sub Divisional Officer, Madha, District Solapur is set aside. Revision Application No. 4/B of 2017 is restored to file before the learned Collector, Solapur.

(b) The learned collector himself shall hear the matter or the same shall be heard by one of the officer referred in section 23(2A) of the Mamlatdar Courts Act, 1906. The said officer shall pass a fresh order after hearing both the parties and in accordance with law and without being influenced by the observations made in the impugned order dated 30th December,2017 and the conclusion drawn therein expeditiously and not later than four months from the date of the first meeting. The Sub-Divisional Officer is directed to transmit the papers and proceedings to the learned Collector, Solapur within one week from the date of the communication of this order by the

petitioner.

(c) The parties are directed to appear before the learned collector on 11th April, 2018 at 03.00 p.m.

(d) The parties as well as the authority to act on the authenticated copy of this order.

(e) The petitioners are directed to communicate this order to the respondent nos. 1 to 5 and shall file affidavit of service before the learned Collector, Solapur.

(f) The respondent nos. 1 to 5 are also directed to remain present before the learned collector on the appointed date.

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

6. Ad-interim protection which was in force in the revision application before the Sub-Divisional Officer before dismissal of the revision application to continue during the pendency of the revision application upon remand and for a period of two weeks from the date of communication of the order if the same is adverse against the petitioners.

[R.D. DHANUKA, J.]