

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2356 OF 2010

Pandurang Tukaram Sonawane

..... Petitioner

VERSUS

**Laxman Namdeo Sonawane,
since deceased through his LR. & Ors.**

..... Respondents

Mr.Girish R.Agrawal for the Petitioner.

CORAM : R.D. DHANUKA, J.

DATE : 3rd MAY, 2018

P.C.

Learned counsel for the petitioner states that the respondents are served. None appeared for the respondents when the matter was called out.

2. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 8th February, 2010 passed by the Sub-Divisional Officer, Niphad Division, Niphad in RTS Revision No.67 of 2009 and thereby confirming the order of the learned Tahsildar, Niphad in Vahivat Case No.14 of 2008 dated 26th November, 2008.

3. This Court by a judgment and order dated 11th December, 2017 in case of ***Shri Vilas Gajanan Bhujbal & Ors. versus 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 revision under section 23(2A) of the Mamlatdar's Courts Act, 1906. In

my view, the Sub Divisional Officer thus had no jurisdiction to pass an order in the said Revision Application.

4. In my view, the learned Sub-Divisional Officer has no jurisdiction to pass the impugn order under section 23(2A) of the Mamlatdar's Courts Act, 1906. I, therefore, pass the following order :-

(a) The impugned order dated 8th February, 2010 passed by the Sub-Divisional Officer, Niphad Division, Niphad is set aside.

(b) RTS Revision No.67 of 2009 is restored to file before the learned Additional Collector, Nashik for disposal of the RTS Revision No.67 of 2009 in accordance with law and without being influenced by the observations made and the conclusion drawn in the impugned order dated 8th February, 2010 passed by the learned Sub-Divisional Officer, Niphad.

(c) The learned Additional 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, without being influenced by the observations made and the conclusion drawn in the impugned order dated 8th February, 2010 and in accordance with law.

(d) The parties are directed to appear before the learned Additional Collector, Nashik on 11th June, 2018 at 03.00 p.m.

(e) The petitioner is directed to convey this order to the learned Additional Collector, Nashik.

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

(g) During the pendency of the said revision application, interim relief granted by this court to continue till such revision application is disposed of and for a period of two weeks from the date of communication of the order if the same is adverse against the petitioner.

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

6. The parties to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]