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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.7495 OF 2018

Dashrath S. Jadhav & Ors.

...Petitioners

V/s.

Devidas M. Gosavi & Ors.

...Respondents

Mr.Sugandh B. Deshmukh for the Petitioners.

Mr.Sachin D. Kadam for the Respondent Nos.1 to 9.

CORAM : R.D. DHANUKA, J.
DATE : 21ST MARCH, 2018.

P.C. :-

1. Rule. Learned counsel appearing for the respondents waives service. By consent of parties the petition is heard finally.

2. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 26th February, 2018 passed by the learned Sub-Divisional Officer, Yewala Sub Division, Yewala, District Nashik in RTS Revision Application No.74 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 revision 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 26th February, 2018 passed by the learned Sub-Divisional Officer is set aside. The RTS Revision Application No.74 OF 2017 is restored to file before the learned Additional, Collector, Nashik. 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 Additional Collector, Nashik within one week from the date of communication of this order.

6. Learned Additional 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 impugned order dated 26th February, 2018. The learned Additional Collector or such officer, who is having power to decide the said revision application, shall dispose of the same within eight weeks from the date of the first meeting. Ad-

interim relief granted by this Court on 15th March, 2018 to continue till the disposal of the said revision application and for a period of two weeks, if any adverse order is passed against the petitioners.

7. The parties are directed to remain before the learned Additional Collector, Nashik on 4th April, 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 petitioners are directed to convey this order to the learned Additional Collector, Nashik and the learned Sub-Divisional Officer for compliance.

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

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

(R.D. DHANUKA, J.)