

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

WRIT PETITION NO.3895 OF 2017

Shrimant Chanmallappa Desai & Ors. .. Petitioners
 Vs.
Bajrang Ramchandra Doke & Ors. .. Respondents

Mr.Ashok B.Tajane for the petitioner.

Mr.R.S. Alange for the respondent nos.1 & 2.

Mr.S.D. Rayrikar, AGP for the respondent nos.3 & 4-State.

CORAM : R.D. DHANUKA, J.

DATE : 9th January 2018

P.C.:

. Rule. Learned counsel appearing for the respondent nos.1 & 2 waives service. Learned AGP appearing for the respondent nos.3 & 4 waives service. The petition is heard finally by consent of the parties.

2. By both these petitions, the petitioners have impugned the order dated 31st December 2016 passed by the learned Sub-Divisional Officer, Solapur.

3. Learned counsel appearing for the parties have agreed that the issue involved in this petition that the learned Sub-Divisional Officer has no jurisdiction to pass the impugned order and that the said issue is covered by the judgment of this Court in the case of **Ramesh Damu Patil Vs. Purushottam Umrao Chavan & Ors., reported in 2017 (1) Mh.L.J. 818**

4. I have perused the judgment relied upon by the learned counsel for the petitioner. This Court has already held in the said

judgment as well as in the subsequent judgment that the Collector has no power to delegate the powers to the Sub-Divisional Officer to decide the revision application under Section 23(2A) of the Mamlatdars Courts Act, 1906. The said judgment squarely applies to the facts of this case. I am respectfully bound by the said judgment.

5. It is not in dispute that the impugned order has been passed by the Sub-Divisional Officer, Solapur allowing the revision application by purportedly exercising powers under Section 23(2) of the Mamlatdars Courts Act, 1906. The impugned order is in the teeth of the principles laid down by the this Court in the case of ***Ramesh Damu Patil (supra)*** and other judgments having taken the same view. The impugned order is accordingly set aside.

6. Rule is made absolute in terms of prayer clause (a). The matter is reminded back to the Additional Collector, Solapur to 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. The concerned officer who is empowered to decide the revision shall decide the revision without being influenced by the reasons recorded and conclusion drawn in the impugned order and in accordance with law expeditiously. Parties are directed to appear before the concerned Additional Collector on 17th January 2018 at 3.00 p.m. The Additional Collector, Solapur as well as Parties to act on the authenticated copy of this order. Rule is made absolute in aforesaid terms. No order as to costs.

R.D. DHANUKA, J.