

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

WRIT PETITION (ST.) NO.9386 OF 2018

Shri Ashpak Bashir Patel

... Petitioner

Vs.

Shri Ibrahim Fatru Patel and ors.

... Respondents

Mr. Rameshwar N. Gite for the Petitioner.

Mr.R.S.Datar for Respondent Nos. 1 and 2.

Mr.S.H. Kankal, A.G.P. for the State – Respondent Nos.3 to 6.

CORAM : R.D.DHANUKA, J.

DATE : APRIL 23, 2018.

P.C. :

1. Rule.

2. Heard the learned counsel for the Respondent Nos.1 and 2. and 3 to 6. Mr.Datar waives service for Respondent Nos. 1 and 2. Mr.S.H. Kankal, A.G.P. Waives service for the State – Respondent Nos.3 to 6. By consent of the parties, matter is heard finally forthwith.

3. By this Petition filed under Article 227 of the Constitution of India, the Petitioner challenges the impugned order dated 21st December 2017, passed by the learned Sub-Divisional Officer, Chandwad, District Nashik, in RTS Revision No. 44 of 2017.

3. This court by a judgment and order dated 11th December, 2017, in case of **Shri Vilas G. Bhujbal and ors Vs. Sou. Pushpa Chandrakant Dabhade and ors.** has held that the Sub-Divisional Officer has power to pass an order in Revision under Section 23(2A) of the Mamlatdar's Courts Act, 1906. The said judgment squarely applies to the facts of this case. I am bound by said judgment. In my view, the learned Sub-Divisional Officer have no jurisdiction to pass any order in the Revision Application under Section 23(2A) of the Mamlatdar's Courts Act, 1906. I therefore, pass the following order :-

a. The impugned order dated 21st December 2017, passed by the Sub-Divisional Officer, Chandwad, District Nashik is quashed and set aside.

b. RTS Revision No. 44 of 2017 is restored to file before the learned Additional Collector, Nashik for disposal in accordance with law and without being influenced by the conclusion drawn in the order dated 21st December 2017, passed by the learned Sub-Divisional Officer. The said Revision Application shall be disposed of either by Additional Collector or an officer referred in under Section 23(2A) of the Mamlatdar's Courts Act, 1906

expeditiously.

d. The learned Sub-Divisional Officer is directed to transmit the papers and proceedings in RTS Revision No. 44 of 2017 to the Additional Collector, Nashik, within one week from the date of communication of this order.

e. Parties are directed to appear before learned Collector, Nashik on 2nd May 2018 at 3.00 p.m. without fail.

f. Rule is made absolute in aforesaid terms. There shall be no order as to costs.

g. Parties shall act on the authenticated copy of this order.

h. The contesting Respondents also shall be at liberty to appear before the learned Additional Collector or an Officer who is empowered to hear such application.

(R.D.DHANUKA, J.)