

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4295 OF 2013

Tukaram N. Matade	...Petitioner
V/s.	
Suresh J. Mahajan & Ors.	...Respondents

Mr.U.B. Nighot for the Petitioner.

Mr.Ajinkya Udane i/b Mr.Prathamesh Bhargude for the Respondents.

CORAM : R.D. DHANUKA, J.
DATE : 29TH JANUARY, 2018.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 18th June, 2012 passed by the Sub-Divisional Officer, Junnar Sub-Division Khed, District Pune dismissing the revision application filed by the petitioner.

2. This Court in case of **Bija Maroti Hatwar vs. Kisan Chirkut Patode & Anr. 2015 (1) Mh.L.J. 282** has held that under section 23(2-A) of the Mamlatdars' Courts Act, 1906, the Collector may delegate the powers conferred on him to any Assistant Collector, Deputy Collector or Assistant Commissioner and cannot delegate the powers in favour of the Sub-Divisional Officer. The said judgment would squarely apply to the facts of this case.

3. In view of this position, in my view the Revision Application filed by the petitioner was not maintainable before the Sub-Divisional Officer. The impugned order is accordingly set aside. The petitioner is allowed to withdraw the Revision Application No.15 of 2009, which was dismissed by the learned Sub-Divisional Officer with liberty to file the revision application before an officer, who is delegated such powers by the learned Collector under section 23(2-A) of the Mamlatdars' Courts Act, 1906 within three weeks from today.

4. The writ petition is disposed of in aforesaid terms. The concerned officer shall decide the matter afresh in accordance with law and without being influenced by the observations made and the conclusions drawn by the learned Sub-Divisional Officer in the impugned order dated 18th June, 2012 and shall decide the matter expeditiously. If any application is made for condonation of delay by the petitioner, the same shall be considered by the learned authority in accordance with law and after considering the effect of section 14 of the Limitation Act, 1963.

5. No order as to costs.

(R.D. DHANUKA, J.)