

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

CIVIL REVISION APPLICATION NO.422 OF 2016

Mohan Bhikaji Javale & Ors.	..	Applicants
Vs.		
Tanaji Devram Wagh & Ors.	..	Respondents

Mr.Tushar N.Sonawane for the applicants.
Mr.V.V.Salunkhe for the respondent nos.1 to 3.
Ms.K.N. Solunke, AGP for the respondent nos.4 to 6.

CORAM : R.D. DHANUKA, J.
DATE : 28th February 2018

P.C.:

. Admit. Learned counsel appearing for the respondent nos.1 to 3 waives service. Learned AGP for the respondent nos.4 to 6 waives service. By consent of the parties, the application is heard finally forthwith.

2. By this application filed under Section 115 of the Code of Civil Procedure, the applicant has impugned the order dated 23rd December 2013 passed by the Sub-Divisional Officer, Niphad Division, Niphad.

3. The impugned order is passed under Section 23(2) of the Mamlatdars' Courts Act, 1906. This Court in the case of **Ramesh Damu Patil Vs. Purushottam Umrao Chavan & Ors., reported in 2017 (1) Mh.L.J. 818** has held that the Sub-Divisional Officer is not empowered to decide revision application under Section 23(2A) of the Mamlatdars' Courts Act, 1906. The said judgment squarely applies to the facts of this case.

4. I therefore pass the following order :-

- (i) The order dated 23rd December 2013 passed by the Sub-Divisional Officer, Niphad Division, Niphad in R.T.S. Revision No.72 of 2013 is set aside.
- (ii) R.T.S. Revision No.72 of 2013 is restored to file before the learned Collector, Solapur.
- (iii) Learned Collector, Nashik himself shall dispose of the said revision application within a period of four months from the date of first hearing or shall delegate the said power to one of the designated officers prescribed in Section 23(2A) of the Mamlatdars' Courts Act, 1906.
- (iv) Learned Officer shall pass a fresh order after hearing the parties on merits and without being influenced by the findings rendered and the conclusion drawn in the order dated 23rd December 2013 expeditiously.
- (v) Learned Collector shall not grant unnecessary adjournment to any of the parties.
- (vi) Parties are directed to remain present before the learned Collector, Solapur on 14th March 2018 at 3.00 p.m. The applicant is directed to convey this order to the learned Collector, Solapur.
- (vii) Application is made absolute in aforesaid terms. No order as to costs.
- (viii) Parties to act on the authenticated copy of this order.

R.D. DHANUKA, J.