

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO.11791 OF 2018

Sau.Pushpalata Laxman Dashputre

..... Petitioner

VERSUS

Smt.Kamalabai Parvat Mondhe & Ors.

..... Respondents

Mr.Girish R.Agrawal for the Petitioner.

Mr.H.Inamdar for the Respondent nos. 1 to 4.

Mr.S.D.Rayrikar, A.G.P. for the State – Respondent nos. 12 to 15.

CORAM : R.D. DHANUKA, J.

DATE : 3rd MAY, 2018

P.C.

Mr.Inamdar, learned counsel waives service for the respondent nos. 1 to 4. Mr.Rayrikar, learned A.G.P. waives service for the respondent nos. 12 to 15.

2. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 28th September, 2017 passed by the learned Sub-Divisional Officer, Dindori Sub-Division, Dindori in RTS Revision Application No.34 of 2016.

3. This Court by a judgment and order dated 11th December, 2017 in case of ***Shri Vilas Gajanan Bhujbal & Ors. versus 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, the Sub Divisional Officer thus had no jurisdiction to pass an

order in the said Revision Application.

4. In my view, the learned Sub-Divisional Officer has no jurisdiction to pass the impugn order under section 23(2A) of the Mamlatdar's Courts Act, 1906. I, therefore, pass the following order :-

(a) The impugned order dated 28th September, 2017 passed by the learned Sub-Divisional Officer, Dindori Sub-Division, Dindori is set aside.

(b) RTS Revision Application No.34 of 2016 is restored to file before the learned Additional Collector, Nashik for disposal of the RTS Revision Application No.34 of 2016 in accordance with law and without being influenced by the observations made and the conclusion drawn in the impugned order dated 28th September, 2017 passed by the learned Sub-Divisional Officer, Dindori Sub-Division, Dindori.

(c) The learned Additional 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, without being influenced by the observations made and the conclusion drawn in the impugned order dated 28th September, 2017 and in accordance with law.

(d) The parties are directed to appear before the

learned Additional Collector, Nashik on 18th June, 2018 at 03.00 p.m.

(e) The petitioner is directed to convey this order to the learned Additional Collector, Nashik.

(f) 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.

(g) The learned Additional Collector, Nashik is directed to dispose of the matter expeditiously and not later than four months from the date of the first hearing.

5. Writ petition is disposed of in the aforesaid terms. No order as to costs.

6. The parties to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]