

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8612 OF 2017

Haribhau Sahadu Falane

..... Petitioner

VERSUS

**The Sub-Divisional Officer Dindori,
Sub-Division Dindori, Dist.Nashik & Ors.**

..... Respondents

Mr.Milind M.Sathye, i/b.Mr.Sanjay P.Shinde for the Petitioner.

Mr.S.H.Kankal, A.G.P. for the State – Respondent nos. 1 and 3.

Mr.Rameshwar N.Gite for the Respondent no.2.

CORAM : R.D. DHANUKA, J.

DATE : 24th APRIL, 2018

P.C.

Rule. Learned A.G.P. waives service for respondent nos. 1 and 3. Learned counsel waives service for respondent no.2. By consent of parties, petition is heard forthwith.

2. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 25th April, 2017 passed by the Sub-Divisional Officer, Dindori, Sub-Division Dindori, Tal.Dindori, Dist.Nashik in RTS Revision No.49 of 2016.

3. Learned counsel appearing for the respondent no.2 vehemently opposes this writ petition.

4. 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.

5. The impugned order dated 25th April, 2017 passed by the Sub-Divisional Officer is set aside. The RTS Revision No.49 of 2016 is restored to file before the Additional Commissioner, Nashik. The 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 25th April, 2017 and in accordance with law.

6. 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.

7. The learned Additional Collector or such officer, who is having power to decide the said revision application, shall dispose of the same within three months from the date of the first meeting. Both the parties shall co-operate with each other and also with the learned Authority to dispose of the revision application within the time prescribed and shall not ask for unnecessary adjournment.

8. This court has not expressed any view on the merits of the matter. All contentions of both the parties are kept open.

9. The writ petition is disposed of in aforesaid terms. No order as to costs.

10. All the parties including the concerned Authority to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]