

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

WRIT PETITION NO.994 OF 2018

Anant Hari Patil .. Petitioner
Vs.
Sitabai Nathuram Waghmare & Ors. .. Respondents

Mr.Prathamesh B. Bhargude for the petitioner.

Mr.Arun H. Mehta a/w Ms.Ashwini C. Pawar with Mr.Sanket Shah
i/by M/s.Akshar Laws for the respondent no.1.

Mr.S.D.Rayrikar, AGP for the respondent nos.4 to 6-State.

CORAM : R.D. DHANUKA, J.

DATE : 6th March 2018

P.C.:

. Rule. Learned counsel appearing for the respondent no.1
waives service. Learned AGP appearing for the respondent nos.4 to 6
waives service. The petition is heard finally by consent of the parties.

2. By this petition filed under Article 227 of the Constitution of
India, the petitioner has impugned the order dated 29th April 2017 passed
by the learned Sub-Divisional Officer, Raigad in Revision No.2 of 2017.

3. In the catena of decisions rendered by this Court, this Court
has taken a view that the learned Sub-Divisional Officer is not
empowered to decide the revision application under Section 23(2A) of the
Mamlatdars Courts Act, 1906. The learned Collector himself shall hear
the application or the same shall be heard by one of the officer who has
been delegated with such powers under Section 23(2A) of the
Mamlatdars Courts Act, 1906. The Sub-Divisional Officer is not one of
the officers referred in Section 23(2A) of the Mamlatdars Courts
Act,1906. The impugned order thus passed by the Sub-Divisional Officer
is without jurisdiction and is accordingly set aside.

4. I therefore pass the following order :-

- (i) The impugned order dated 29th April 2017 passed by the Sub-Divisional Officer is set aside.
- (ii) Revision No.2 of 2017 is restored to file before the learned Collector, Raigad. The learned Additional Collector, Raigad shall dispose of the said revision application itself within three months from the date of first meeting or to delegate the powers to one of the officers prescribed in Section 23(2A) of the Mamlatdars Courts Act,1906.
- (iii) The concerned officer who is empowered to decide the revision shall decide the revision without being influenced by the reasons recorded and conclusion drawn in the impugned order and in accordance with law expeditiously.
- (iv) Parties are directed to appear before the learned Additional Collector, Raigad on 21st March 2018 at 3.00 p.m.
- (v) The petitioner as well as the contesting respondents would be at liberty to file written arguments before the authority.
- (vi) Rule is made absolute in aforesaid terms. No order as to costs.
- (vii) The petitioner is directed to convey this order to other respondents who are absent before this Court today for compliance and for remaining present before the learned Collector on the appointed date in advance.
- (viii) The learned Additional Collector, Raigad as well as Parties to act on the authenticated copy of this order.

R.D. DHANUKA, J.