

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

WRIT PETITION NO.11675 OF 2016

Baban Nana Tavare & Ors.	..	Petitioners
Vs.		
Balasaheb Vitthal More & Ors.	..	Respondents

Mr.Shashank C. Mangale i/by Mr.S.B.Chandan for the petitioners.
Mr.N.M.Wable for the respondent no.1.
Mr.Dilip B.Shinde for the respondent nos.2 to 5, 8, 9, 11 and 12.

CORAM : R.D. DHANUKA, J.
DATE : 12th March 2018

P.C.:

. Learned counsel appearing for the petitioners states that all the respondents have been served.

2. Rule. Mr.Wable, learned counsel appearing for the respondent no.1 waives service. Mr.Shinde, learned counsel appearing for the respondent nos.2 to 5, 8, 9, 11 and 12 waives service. By consent of parties, the petition is heard finally forthwith.

3. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 18th June 2016 passed by the Sub-Divisional Officer, Pune rejecting the revision application filed by the petitioner. This Court by judgment and order dated 11th December 2017 in the case of **Shri Vilas G. Bhujbal Vs. Smt.Pushpa C. Dabhade** has held that the Sub-Divisional Officer was not empowered to decide the appeal under Section 23(2A) of the Mamlatdars Courts Act, 1906. The Sub-Divisional Officer thus had no

jurisdiction to pass any order on the said revision application. The said revision application could be decided only by an officer who is specifically described and who can be delegated with such powers by the Collector. Sub-Divisional Officer is not one of the Officers who can be delegated with such powers. The judgments of this Court in the case of ***Shri Vilas G.Bhujbal (supra)*** would squarely apply to the facts of this case. I am respectfully bound by the said judgment.

4. I therefore pass the following order :-

- (i) The impugned order dated 18th June 2016 passed by the Sub-Divisional Officer, Pune is set aside.
- (ii) Revision No.120 of 2015 is restored to file before the learned Collector, Pune. The learned Additional Collector, Pune shall hear of the said revision application itself or to delegate the powers to one of the officers prescribed in Section 23(2A) of the Mamlatdars Courts Act, 1906.
- (iii) The Collector or the concerned officer who is empowered to decide the revision shall decide the revision afresh and pass a fresh order without being influenced by the observations made and conclusion drawn in the impugned order dated 18th June 2016 and in accordance with law expeditiously and not later than two months from the date of first meeting.
- (iv) Parties are directed to appear before the learned Additional Collector, Pune on 26th March 2018 at 3.00 p.m.
- (v) Rule is made absolute in aforesaid terms. No order as to costs.
- (vi) Ad-interim order granted by this Court on 7th October 2016 to continue during the pendency of the revision application before

the Collector or such officer who is empowered to delegate such power and for a period of two weeks from the date of communication of the order if the same is adverse against the petitioners.

- (vii) The learned Additional Collector, Pune as well as Parties to act on the authenticated copy of this order.

R.D. DHANUKA, J.