

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

WRIT PETITION NO.11379 OF 2015

Dattu Kondaji Ghule & Ors.	..	Petitioners
Vs.		
Keshav Parsram Ghule & Anr.	..	Respondents

Mr. Shyam Walve i/by Mr. Swapnil Walve for the petitioners.
Ms. Aditi Naikare i/by Mr. Pradeep Thorat for the respondent no.1.

CORAM : R.D. DHANUKA, J.
DATE : 20th March 2018

P.C.:

1. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 1st August 2015 passed by the learned Deputy District Collector, Nashik and also the order dated 11th February 2015 passed by the learned Tahsildar, Chandwad. The said impugned orders are challenged on the ground that the interim order was passed by the learned Tahsildar under Section 143 of the Maharashtra Land Revenue Code, 1966 and thus the final order could not have been passed under the provisions of the Mamlatdars Courts Act, 1906.

2. Learned counsel for the respondent no.1, on the other hand, submits that the application filed by the respondent no.1 under the provisions of the Mamlatdar Courts Act, 1906 was allowed. She submits that the petitioners have already filed a separate suit bearing Regular Civil Suit No.223 of 2013 before the learned Civil Judge, Senior Division, Niphad, Nashik impugning the orders which are the subject matter of this petition. She submits that in the said civil suit, ad-interim

relief was granted by the civil court by an order dated 23rd November 2015. This Court passed an order dated 17th December 2015 thereby vacating the interim order dated 23rd November 2015 making various observations against the petitioners. She submits that there is no infirmity in the order passed by the authorities below. In any event, the petitioners have already filed a civil suit impugning these orders and thus this writ petition is not maintainable on this ground also.

3. Learned counsel for the petitioners in rejoinder states that in the additional affidavit filed by the petitioner pursuant to the order dated 17th December 2015 passed by this Court, the petitioners have explained that the petitioners have not suppressed any facts.

4. Learned counsel for the petitioners however does not dispute that the petitioners have already filed a civil suit bearing Regular Civil Suit No.223 of 2013 before the Civil Judge, Senior Division, Niphad, Nashik impugning the same orders which are subject matter of this petition.

5. I have perused both the orders passed by the authorities below. Various findings of facts are rendered by both the authorities below which are not perverse and cannot be interfered with in this petition filed under Article 227 of the Constitution of India.

6. A perusal of the orders indicates that the impugned orders were passed under the provisions of the Mamlatdar Courts Act, 1906. The application made by the respondent no.1 was also filed under the provisions of the Mamlatdars Courts Act, 1906. I do not find any

infirmity in the impugned order passed by the respondent no.2. Petition is devoid of merits and is accordingly dismissed. No order as to costs.

R.D. DHANUKA, J.