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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12309 OF 2016

Sudhir S. Veer	...Petitioner
V/s.	
The Sub-Divisional Officer, Solapur & Ors.	...Respondents

Mr.Vishwasrao S. Deokar for the Petitioner.

Ms.G.R. Golatkar, A.G.P. for the State – Respondent Nos.1 and 2.

Mr.Chinmaya Acharya i/b Mr.Sriram Chaudhari for the Respondent
Nos.3 to 7.

CORAM : R.D. DHANUKA, J.
DATE : 13TH MARCH, 2018.

P.C. :-

1. The respondent nos.3 to 7 though served, have not filed affidavit in reply. The respondent nos.1 and 2 have filed their affidavit in reply.

2. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the orders dated 30th November, 2015 passed by the learned Tahsildar and 4th July, 2016 passed by the Sub-Divisional Officer, Solapur -1, Solapur.

3. This Court by a judgment and order dated 11th December, 2017 in case of **Shri Vilas Gajanan Bhujbal & Ors. vrs.**

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 appeal under section 23(2A) of the Mamlatdar's Courts Act, 1906. In my view, Sub Divisional Officer had no jurisdiction to pass an order in Revision Application No.13 of 2016.

4. The impugned order dated 4th July, 2016 passed by the Sub Divisional Officer is set aside. The Revision Application No.13 of 2016 is restored to file before the learned Additional Collector, Solapur. The 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.

5. The learned Sub Divisional Officer is directed to transmit the papers and proceedings in the said revision application to the learned Additional Collector within one week from the date of communication of this order.

6. Learned Additional Collector himself or such officer who is empowered to decide the said revision application shall decide the matter afresh without being influenced by the observations made and the conclusion drawn in the order dated 4th July, 2016. The Additional Collector or such officer, who is having power to decide the said revision application, shall dispose of the same expeditiously and not later than four months from the date of the first meeting.

7. The petitioner as well as the respondent nos.3 to 7 are directed to remain before the Additional Collector, Solapur on 23rd March, 2018 at 3:00 p.m. If the learned Additional Collector has delegated his powers to any of the officers recorded under section 23(2A) of the Mamlatdar's Courts Act, the parties shall appear before such officer. The petitioner is directed to convey this order to the learned Sub Divisional Officer for compliance.

8. During the pendency of the revision application before the Additional Collector, Solapur, the standing crops, if any, of the petitioners shall not be removed by any of the respondents to this writ petition.

9. Rule is made absolute in aforesaid terms. No order as to costs.

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

(R.D. DHANUKA, J.)