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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.27383 OF 2017

Madhav K. Dambale	...Petitioner
V/s.	
Tukaram M. Kadam & Ors.	...Respondents

Mr.Sachin Gite for the Petitioner.

Ms.Divya Parab i/b Mr.R.N. Gite for the Respondent Nos.1 and 2.

Mr.S.D. Rayrikar, A.G.P. for the State – Respondent Nos.6 and 7.

CORAM : R.D. DHANUKA, J.

DATE : 7TH MARCH, 2018.

P.C. :-

1. Rule. Mr.Parab waives service for the respondent nos.1 and 2. Mr.Rayrikar, learned A.G.P. waives service for the respondent nos.6 and 7. By consent of all parties, the matter is heard finally.
2. Mr.Gite, learned counsel appearing for the petitioner states that only the respondent nos.1 and 2 are the contesting respondents.
3. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 27th July, 2017 passed by the learned Sub-Divisional Officer, Dindori Sub Division, Dindori, District Nashik in RTS / REVISION / 48 / 2016. In catena of judgments delivered by this Court including the decision delivered on

11th December, 2017 in case of **Shri Vilas Gajanan Bhujbal & Ors. vrs. Sou.Pushpa Chandrakant Dabhade & Ors.** in Writ Petition No.11598 of 2014, it has been held that the Sub Divisional Officer has no jurisdiction to pass an order under section 23(2A) of the Mamlatdar's Courts Act, 1906. The Sub Divisional Officer is not one of the officer who is having jurisdiction to pass an order under section 23(2A) of the Mamlatdar's Courts Act, 1906. The Collector thus cannot delegate the powers to the Sub Divisional Officer. The said judgment squarely applies to the facts of this case.

4. The impugned order dated 27th July, 2017 passed by the Sub Divisional Officer is set aside. The Revision Application No.48 of 2016 is restored to file before the learned Additional Collector, Nashik. The Additional Collector himself shall decide the said revision application or delegate such powers to one of the officers recorded in section 23(2A) of the Mamlatdar's Courts Act, 1906.

5. The learned Sub Divisional Officer is directed to remit the papers and proceedings in the said revision application before 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 27th July, 2017. 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 parties are directed to remain before the Additional Collector on 22nd March, 2018 at 3:00 p.m. The petitioner is directed to convey this order to the other respondents, who have not appeared before this Court for compliance.

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

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

(R.D. DHANUKA, J.)