

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 371 OF 2018

Sau.Kamlabai Pandurang Shinde

..... Petitioner

VERSUS

Govind Ramchandra Khatale & Ors.

..... Respondents

Mr.Girish R.Agrawal for the Petitioner.

Mr.S.D.Rayrikar, A.G.P. for the State – Respondent nos. 3 and 4.

CORAM : R.D. DHANUKA, J.

DATE : 3rd MAY, 2018

P.C.

Mr.Agrawal, learned counsel for the petitioner tenders affidavit of service. None appeared for the respondent nos. 1 and 2 though served. Mr.Rayrikar, learned A.G.P. waives service for the respondent nos. 3 and 4.

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 Deputy Collector & Sub-Divisional Officer, Igatpuri-Trimbakeshwar Sub Division, Nashik in RTS Revision No.170 of 2015.

3. This Court by a judgment and order dated 11th December, 2017 in case of ***Shri Vilas Gajanan Bhujbal & Ors. versus 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 revision under section 23(2A) of the Mamlatdar's Courts Act, 1906. In my view, the Sub Divisional Officer thus had no jurisdiction to pass an order in the said Revision Application.

4. In my view, the learned Deputy Collector and Sub-Divisional Officer has no jurisdiction to pass the impugn order under section 23(2A) of the Mamlatdar's Courts Act, 1906. I, therefore, pass the following order :-

(a) The impugned order dated 29th April, 2017 passed by the learned Deputy Collector & Sub-Divisional Officer, Igatpuri-Trimbakeshwar Sub Division, Nashik is set aside.

(b) RTS Revision No.170 of 2015 is restored to file before the learned Additional Collector, Nashik for disposal of the RTS Revision No.170 of 2015 in accordance with law and without being influenced by the observations made and the conclusion drawn in the impugned order dated 29th April, 2017 passed by the learned Deputy Collector & Sub-Divisional Officer, Igatpuri-Trimbakeshwar Sub Division, Nashik.

(c) The learned 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, without being influenced by the observations made and the conclusion drawn in the impugned order dated 29th April, 2017 and in accordance with law.

(d) The parties are directed to appear before the learned Collector, Nashik on 18th June, 2018 at 03.00 p.m.

(e) The petitioner is directed to convey this order to the learned Additional Collector, Nashik.

(f) The petitioner is directed to convey this order to the respondent nos. 1 and 2. The respondent nos. 1 and 2 may also appear before the learned Additional Collector, Nashik.

(g) The learned Deputy Collector & Sub-Divisional Officer is directed to transmit the papers and proceedings in the said revision application to the learned Additional Collector, Nashik within one week from the date of communication of this order.

(h) The learned Tahsildar, Igatpuri is directed to furnish certified copy of the proceedings in Vahivat No. 3 of 2007 to the parties on payment of requisite charges if any.

5. Writ petition is disposed of in the aforesaid terms. No order as to costs.

6. The parties to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]