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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1130 OF 2018

Uddhav P. Ahire	...Petitioner
V/s.	
Smt.Vandana S. Bagul & Ors.	...Respondents

Mr.Pramod N.Joshi for the Petitioner.

Mr.Milind M. Sathye for the Respondent Nos.1 to 3.

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

CORAM : R.D. DHANUKA, J.
DATE : 9TH APRIL, 2018.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 16th November, 2017 passed by the learned Sub-Divisional Officer, Balgan Sub-Division in Revision Application No.55 of 2015.

2. 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 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.

3. The impugned order dated 16th November, 2017 passed by the learned Sub-Divisional Officer is set aside. The Revision Application No.55 of 2015 is restored to file before the learned Additional Collector, Nashik. The 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 16th November, 2017 and in accordance with law.

4. The learned 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.

5. The learned Additional Collector or such officer, who is having power to decide the said revision application, shall dispose of the same within three months from the date of the first meeting. Both the parties shall co-operate with each other and also with the learned Authority to dispose of the revision application within the time prescribed and shall not ask for unnecessary adjournment.

6. *Ad-interim* relief in terms of prayer clause (b) shall be

continued for a period of four weeks from today. The petitioner would be at liberty to apply for continuation of the said *ad-interim* protection before the Revisional Authority. The contesting respondent would be also at liberty to apply for vacation of the ad-interim relief before such authority. Both the parties shall appear before learned Additional Collector, Nashik on 18th April, 2018 at 03:00 p.m. It is made clear that this Court has not expressed any views on merits of the issues raised in this writ petition. All the contentions on merits of both the parties are kept open. 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 Additional Collector, Nashik and the learned Sub-Divisional Officer for compliance.

7. The writ petition is disposed of in aforesaid terms. No order as to costs.

8. All the parties including the concerned Authority to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)