

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.626 OF 2017

Chandrabhan B. Bhavar & Ors.	...Petitioners
V/s.	
Chindhu S. Bodake & Ors.	...Respondents

Ms.Divya Parab i/b Mr.R.N. Gite for the Petitioners.

Mr.Telesh Dande i/b Telesh Dande & Associates for the Respondent Nos.1 to 3 and 5.

Mr.S.D. Rayrikar, A.G.P. for the State – Respondent Nos.19 and 20.

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

P.C. :-

1. Rule. Learned counsel appearing for the respondent nos.1, 3 and 5 waives service. Learned A.G.P. waives service for the respondent nos.19 and 20. Rest of the respondents are served except the respondent no.18, who is a formal party. By consent of the parties present in Court, the petition is heard finally.

2. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 14th October, 2016 passed by the learned Sub-Divisional Officer, Chandwad Sub-Division, Chandwad in RTS / Revision Application No.102 of 2016 and the order dated 30th June, 2016 passed by the Tahsildar,

Chandwad in Easementary Suit No.12 of 2015.

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 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. The said judgment applies to the facts of this case. I am respectfully bound by the said judgment.

4. Pursuant to the order dated 21st February, 2018 passed by this Court, the petitioners have already preferred a revision application before the learned Collector, Nashik. 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, without being influenced by the observations made and the conclusion drawn in the impugned order dated 14th October, 2016 on its own merit and in accordance with law after hearing the parties in the said revision application. *Ad-interim* relief granted by this Court on 21st February, 2018 to continue during the pendency of the said revision application before the Additional Collector, Nashik or any of the officer who is empowered to decide

the said revision application under section 23(2A) of the Mamlatdar's Courts Act, 1906 expeditiously and not later than three months from the date of the first meeting.

5. The parties shall appear before the learned Additional Collector, Nashik on the date fixed by the learned Additional Collector and shall not seek any unnecessary adjournment.

6. The impugned order dated 14th October, 2016 passed by the learned Sub-Divisional Officer, Chandwad Sub-Division, Chandwad in RTS / Revision Application No.102 of 2016 is set aside. Rule is made absolute in aforesaid terms. No order as to costs.

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

(R.D. DHANUKA, J.)