

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9441 OF 2019

BIBHISHAN SOPAN DESHMUKH AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.S.A.Patil, Advocate for the petitioners.
Mr.S.R.Yadav, AGP for respondent Nos. 1 to 3.
Mrs.M.A.Kulkarni, Advocate for respondent No.4.

(CORAM : Ravindra V.Ghuge, J.)
DATE : 26/09/2019

PER COURT :

1. I have heard the learned Advocates for the respective sides and have perused the affidavit in reply filed on behalf of respondent No.2 dated 21/09/2019. It is frankly submitted in paragraph No.5 of the affidavit in reply that the petitioners were not served with the notice of hearing with regard to the proceedings u/s 23(2) of the Mamlatdars' Courts Act, 1906 before the Revisional Authority. The impugned order has been passed by the Revisional Authority, on the presumption that the petitioners were served.

2. Though the learned Advocate for respondent No.4 strenuously opposes this petition and prays for its dismissal, I do not find that the said contentions are sustainable.

3. I have also perused the certified copy of the notice issued by the Revisional Authority on 05/04/2018 through the Tahsildar so as to be served on the petitioners. It is specifically recorded by the Kotwal/Talathi of the village that the address of these petitioners is wrongly mentioned in the notice and none of them reside at Washi as they reside at Mandwa. The notices were therefore returned without service.

4. In view of the above, this petition is partly allowed. The impugned order dated 29/09/2018, passed by the Revisional Authority, is quashed and set aside. The Proceeding No.याचिका/ २०१८/आर.सी.आर/सी.आर —६० stands remitted to the Office of respondent No.2. All the litigating sides shall appear before the said Authority on 06/11/2019 at 3.00 p.m. Formal notices need not be issued.

5. The Revisional Authority would consider the contentions of the parties, peruse the record available and issue such directions as may be found necessary to inspect the suit property and pass a reasoned order deciding the proceedings u/s 23(2), on or before 31/01/2020.

(Ravindra V.Ghuge, J.)