

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5128/2019

Gajanan S/o Babarao Thakare and others

..Vs..

Santosh S/o Bhanudas Thakare and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Amol S. Deshpande, Advocate for the petitioners.

CORAM : Z.A. HAQ, J.

DATED : 26.7.2019.

Heard.

2] Ms. T.H. Khan, learned A.G.P. appearing for the respondent No.3 has pointed out that revision under Section 23 of the Mamlatdars' Courts Act, 1906 lies against the impugned order.

3] Learned Advocate for the petitioners states that petitioners have approached this Court directly under Articles 226 and 227 of the Constitution of India as the respondent No.3-Mamlatdar has failed to exercise jurisdiction vested in him by the provisions of the Mamlatdars' Courts Act, 1906 and he has misdirected himself by accepting the submission made on behalf of the respondent Nos.1 and 2 that the claim of the petitioners cannot be considered in view of pendency of Writ Petition No.4743/2017 before this Court.

4] The explanation given by the petitioners for bypassing the statutory remedy cannot be accepted. The Revisional Authority can consider the effect of pendency of Writ Petition No.4743/2017 and if the petitioners satisfy the Revisional Authority that it does not have any impact on adjudication on the subject matter as claimed by the petitioners, the Competent Authority is bound to take appropriate decision in the matter.

5] In view of the above, I am not inclined to interfere in the matter. Writ petition is **dismissed** with liberty to the petitioners to avail alternate remedy, if so advised. In the circumstances, the parties to bear their own costs.

JUDGE