

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.6333 OF 2019

Vijay Deorao Wasule, Narkhed, Dist. Nagpur

-vs-

The Deputy Collector (Revenue), Collectorate, Nagpur and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri M. Atteque, Advocate for petitioner.

Shri A. V. Palshikar, Assistant Government Pleader for
respondent Nos.1 and 2.

Shri R. B. Nikule, Advocate for respondent No.3.

CORAM : A.S.CHANDURKAR, J.

DATE : September 25, 2019

The challenge raised in the present writ petition is to the order passed by the Sub-Divisional Officer/Additional Collector on 15/07/2019 allowing the appeal preferred by the respondent No.3 herein and setting aside the order passed by the Mamlatdar on 11/06/2018 in the proceedings initiated under Section 5 of the Mamlatdar's Courts Act, 1906 (for short, the said Act).

2. Heard Shri M. Atteque, learned counsel for the petitioner and Shri A. V. Palshikar, learned Assistant Government Pleader for the respondent Nos.1 and 2. It is seen that the original application filed by the petitioner on 03/05/2018 is not supported by an affidavit as required by Section 7 of the said Act. The further procedure as

prescribed by Sections 9 and 10 of the said Act has not shown to be followed by the Mamlatdar. A similar issue was considered in *Gaurankshan Sansthan, Murtizapur vs. State of Maharashtra and ors. 2019(3) ALL MR 849* and in such circumstances liberty was granted to the applicant therein to file fresh application on the same cause of action by complying with the requirements of the said Act.

3. In that view of the matter and considering the similarity of facts, the present writ petition is disposed of by passing the following order :

The order passed by the Additional Collector on 15/07/2019 is set aside.

The petitioner is at liberty to file fresh application on the same cause of action by complying with the provisions of Section 7 of the said Act. The report of the Talathi which is already on record can also be considered in such proceedings. By observing that the fresh proceedings if filed be decided on its own merits and in accordance with law expeditiously, the writ petition is allowed.

Rule is made absolute in aforesaid terms with no order as to costs.

JUDGE