

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12013 OF 2018

Kamal Sayajirao Salunke

..Petitioner

V/s.

Shankar Ramchandra Ambrale & Ors.

..Respondents

Mr.Sudhir I. Nandode for the Petitioner.

Mr.V.S. Talkute for Respondent Nos.1 to 7.

Mr.N.C. Walimbe, AGP for Respondent Nos.8 and 9-State.

CORAM : C.V. BHADANG, J.

DATE : 04th FEBRUARY 2020

P.C.

1. Heard for some time.

2. The challenge in this petition is to the order passed by the learned Mamaltdar under Section 5 of the Mamaltdar Courts Act ('Act' for short) by which an application filed by the respondent Nos.1 to 7 under Section 5 of the said Act has been allowed. The record discloses that in the earlier round of litigation the matter has reached this Court in Writ Petition No.6335 of 2017. That petition was decided on 20th June 2018, by consent of parties and the matter was remitted back to the learned Additional Collector where the

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Revision Application filed by the petitioner, challenging the order passed by the Mamlatdar, was pending. After the remand the learned Additional Collector by the impugned order dated 27th August 2018 has dismissed the Revision Application and confirmed the order dated 30th November 2015 passed by the learned Mamlatdar.

3. The learned counsel for the petitioner submitted that the application filed by the respondent Nos.1 to 7 before the Mamlatdar was not in proper format and secondly the order which is based on the spot panchanama is not proper. The learned counsel also submitted that the spot panchanama dated 25th September 2018 cannot be relied upon as it does not set out the details of the panchas and whether these panchas were owners of the adjoining lands.

4. I have considered the submissions made. It is now well settled that the proceedings before the Mamlatdar under Section 5 of the said Act are of summary nature and strict rules of pleadings do not apply. A specific query was made to the learned counsel for the petitioner whether any objection was taken to the panchnama before the Mamlatdar to which the answer is in the negative. Faced

with this the learned counsel submitted that the petitioner will take recourse to the appropriate remedy before the competent Civil Court against the impugned order. In view of the statement so made I decline to entertained the petition. Needless to mention that if the petitioner chooses to take the appropriate remedy before the Civil Court, the Civil Court shall decide the matter on its own merits and in accordance with law and without being influenced by the observations in the impugned orders. The petition is disposed of in the aforesaid terms, with no order as to costs.

C.V. BHADANG, J.