

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

CIVIL REVISION APPLICATION NO.69 OF 2021

Harsh Brijmohan Gupta

...Applicant

Versus

Nisarga Krishi Vriksha Lagwad va
Sanvardhan Sastha Maryadit
through its Chairman Suhas
Keshav Patwardhan and
Secretary Shekhar Vasant
Malawade .

...Respondent

....

Mr. G.S. Godbole i/b. Mr. Rahul Soman, Mr. Shon Gadgil, Mr. Murtaza
Chherawala and Ms Asmita Mogre for CNS Juris.
Mr. Nitin P. Deshpande for the Respondent.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 21st JUNE, 2021.

P.C.:-

With consent, heard finally at the stage of admission.

2. The Applicant herein has challenged the order dated 13/01/2020 whereby the learned SDO, Mulshi has dismissed the revision application No.A/SR/426/2019 and affirmed the order of Tahasildar dated 16/05/2019, allowing the application filed by Respondent under Section 5 of Mamlatdar's Court Act, 1906.

3 Mr. Godbole, learned counsel for the Applicant states that

learned Tahasildar had passed the impugned order without hearing the Applicant.

4. The records reveal that the matter was listed before the learned Tehasildar on 30/04/2019, on which date evidence of the Applicant's witnesses was recorded. The records further reveal that the Applicant had filed an application for adjournment and sought time to argue the matter. Learned Tahasildar rejected the said application and reserved the matter for orders.

5. A perusal of the roznama dated 30/04/2019 clearly indicates that parties were not heard in the matter and Learned Tehasildar had passed an order against the Applicant without hearing him. It is a basic principle of justice that no adverse order should be passed against a party without hearing him. This is the fundamental principle of natural justice. The order in violation of this principle cannot be sustained.

6. Under the circumstances, the application is allowed. The impugned orders are quashed and set aside. Matter is remanded to learned Tahasildar with direction to decide the application afresh on the basis of the evidence on record, after affording opportunity of hearing to the respective parties. Needless to state that this Court has not gone into the merits of the matter and the learned Tehasildar shall

decide the application in accordance with law.

7. Rule made absolute in above terms. No order as to costs.
Parties to appear before the learned Tahasildar on 06/07/2021 at 11.00
a.m.

(SMT. ANUJA PRABHUDESSAI, J.)