

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11412 OF 2021

ANANT SHRIMANT GODSE AND OTHERS
VERSUS
THE SUB DIVISIONAL OFFICER AND OTHERS

...

Advocate for Petitioners : Mr. B.M. Dhanure
AGP for Respondent-State: Mr. S.W. Munde
Advocate for Respondent No. 3: Mr. A.N. Irpatgire
Advocate for Respondent No. 4 and 5.: Mr. S.S. Rathi

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 11th JULY, 2022

ORDER :

1. This petition filed under Article 227 of the Constitution of India impugns the order passed by the Sub Divisional Officer, dated 03.08.2021, by which the Sub Divisional Officer has reviewed his own order dated 15.09.2020 passed under the Mamlatdars' Court Act, 1906.

2. In the earlier round of litigation, this Court in Writ Petition No. 11794/2014 quashed and set aside the order passed by the Sub Divisional Officer dated 12.12.2019 and remanded the matter back to him for taking fresh decision on merits.

3. Pursuant to the order passed by this Court, the Sub Divisional Officer decided the matter on 15.09.2020 thereby partly allowing the revision filed by the petitioners and directing the parties to give five feet road each from Gut Nos. 151, 150, 149, 147, 119, 120, 126, 136, 135 and Gut Nos. 223, 146 and 137, for the use of agriculturist. Respondent No. 4 thereafter moved Sub Divisional Officer seeking review of order passed on 15.09.2020 and at her instance the Sub Divisional Officer reviewed the order and set aside the order passed by him on 15.09.2020 and confirmed the order passed by the then Sub Divisional Officer, Latur, dated 11.11.2014.

4. Having heard the learned advocate for respective parties and learned Assistant Government Pleader, this Court is of the considered view that the impugned order is without jurisdiction. There is no provision in the Mamlatdars' Court Act, 1906, which authorises the Sub Divisional Officer to review his own order. Since the impugned order is passed by exercising review powers which is statutorily not permissible, the impugned order is without jurisdiction and same is liable to be quashed and set aside. In the result, following order:-

ORDER

1. The writ petition is allowed in terms of prayer clause 'C'.
2. The impugned order dated 03.08.2021 passed by the Sub Divisional Officer, Latur and order order 15.09.2020 passed by Sub Divisional Officer, Latur, are hereby quashed and set aside.
5. Needless to mention here that respondents No. 4 and 5 may avail appropriate remedy permissible in law.

[NITIN B. SURYAWANSHI, J.]