

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

933 WRIT PETITION NO.6981 OF 2022

HIMMAT LALA BADGUJAR AND ANOTHER
VERSUS
PANDIT LATKAN BADGUJAR

...

Advocate for the petitioners : Mr.M.G.Patil
AGP for Respondent-State : Mr.K.B.Jadhavar
Advocate for Respondent no.1 : Mr.C.P.Patil

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CORAM : ARUN R. PEDNEKER, J.

DATE : 02.02.2023

P.C. :

1] It is pointed out by the petitioners that the revisional authority has set aside the order passed by the Mamlatdar, Erandol, exercising the powers under Section 5 of the Mamlatdar's Courts Act, 1906 on the ground that no opportunity was given to the respondents to lead the evidence and to cross examine the witnesses. However, the revisional authority merely set aside the order passed by the Mamlatdar and did not remit the matter to the Mamlatdar for fresh re-consideration of application.

2] In view of the same, the order dated 01.04.2022 passed by the Sub Divisional Officer, Erandol in R.T.S. Revision No. 39/2021 is quashed and set aside. The matter is remitted back to the Tahsildar, Erandol to decide the matter afresh under Section 5 of the Mamlatdar's Courts Act.

3] In view of the fact that no notice in respect of spot panchanama was given in the matter, the Mamlatdar, Erandol to conduct the proceedings afresh. It is disputed that the notice of panchanama was earlier not given to the parties, nevertheless the Tahsildar to proceed afresh in the matter, as one of the party was not present for spot inspection.

4] Accordingly, the Writ Petition is disposed of.

[ARUN R. PEDNEKER]
JUDGE

DDC