

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

942 WRIT PETITION NO.8751 OF 2015
WITH WP/10207/2022

RAM MAROTI MANE AND OTHERS
VERSUS
CHANDRAKANT GANPAT MANE AND OTHERS

...

Advocate for Petitioners in WP 8751/15: Mr. S.M. Vibhute
Advocate for petitioner in WP 10207/2022 : Mr. B.I. Mahajan
AGP for Respondents 3 : Mr. K.B. Jadhavar
Advocate for Respondents 1 & 2 : Ms. M.S. Mhase (Thuge) h/f. Lex Aquila
Advocate for Respondent 4 : Mr. S.P. Shirsat h/f. Mr. N.L. Chaudhari

...

CORAM : ARUN R. PEDNEKER, J.
DATED : 08/03/2023

PER COURT :

1. Mr. B.I. Mahajan, learned counsel appearing for petitioner in Writ Petition No. 10207/2022 submits that his writ petition involves different issue and therefore, the same may be detached from Writ Petition No. 8751/2015. Detach Writ Petition No. 10207/2022 from Writ Petition No. 8751/2015. On the request made by the learned counsel for the petitioner, list Writ Petition No. 10207/2022 on 5.4.2023.

2. By the present writ petition i.e. Writ Petition No. 8751/2015, the petitioners are challenging the order dated 26.6.2015 passed by the respondent No. 3 - Sub Divisional Officer, Nilanga, District Latur in the revision petition filed under section 23(2) of the Mamlatdars Courts Act, 1906 (hereinafter referred to as 'the Act' for short).

2. Mr. S.M. Vibhute, learned counsel for the petitioners contends that the revisional authority i.e. Sub Divisional Officer did not have jurisdiction to decide the revision as the Sub Divisional Officer is not the authority

constituted under section 23 (2A) of the Act. The learned counsel for the petitioner, therefore, submits that the order passed by the Tahsildar is correct order and the Revisional authority had no jurisdiction to interfere with the same.

3. In response thereto, Ms. M.S. Mhase, learned counsel appearing for respondent Nos. 1 and 2 as well as Mr. K.B. Jadhavar, learned AGP submitted that the judgment of Full Bench of this Court in the case of **Prashant Prabhakar Rao Mukkavar Vs. The Sub Divisional Officer, Pusad and Ors. in Writ Petition No. 387/2017 dated 31.7.2019** has squarely covered the issue involved in this writ petition and also placed on record the notification dated 13.10.2008 by which powers are delegated to the Sub Divisional Officer by the Additional Collector. This Court in the case of Prashant Mukkavar (supra) has held that Sub Divisional Officer is the nomenclature used under the Maharashtra Land Revenue Code and if the powers are delegated to the Deputy Collector or Assistant Collector, who is working as the Sub Divisional Officer under the Maharashtra Land Revenue Code the SDO/Deputy Collector would have the jurisdiction under section 23 of the Mamlatdars Courts Act.

4. The petition is based on the legal submissions as aforesaid and therefore response was sought from the respondents on the submissions made by the learned counsel for the petitioner. Once the legal submission is answered by the respondents, the petitioner now seeks leave to argue the matter on merits.

5. The impugned order being a remand order and lot of time has gone into the legal submissions of jurisdiction raised by the petitioner, thus, it would be in the interest of justice that the matter be remanded to

Tahsildar. In view of the above, the order passed by the SDO, remanding the matter back to the Tahsildar for deciding afresh is upheld and the Tahsildar is directed to decide the proceedings within two months from the date of receipt of this order. The parties are directed to appear before the Tahsildar on 28.3.2023 at 2.30 p.m. The Writ Petition is disposed of accordingly.

[ARUN R. PEDNEKER J.]

ssc/