

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.3818/2023

Samadhan s/o Bhagwan Bankar and another
...Versus...
Limbaji s/o Lakhuji Pawar and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. A.S. Dhore, Advocate for petitioners
Mr. Rugved Dhore, Advocate for respondent nos.1 and 2
Mr. N.R. Patil, AGP for respondent no.3

CORAM : AVINASH G. GHAROTE, J.
DATE : 04/08/2023

1. Heard Mr. A.S. Dhore, learned counsel for the petitioners; Mr. Rugved Dhore, learned counsel for the respondent nos.1 and 2 and Mr. N.R. Patil, learned Assistant Government Pleader for the respondent no.3.
2. The petition challenges the order dated 19/05/2023 (pg.27) passed by the Mamlatdar, which has the effect of reviewing his own order dated 21/04/2023 (pg.105). It is an admitted position that the provisions of the Mamlatdars' Courts Act, 1906 do not confer any power of review upon the Mamlatdar, considering which, he could not have reviewed his own order. Though reliance is placed by Mr. Rugved Dhore, learned counsel for respondent nos.1 and 2 on *Gadde*

Venkateswara Rao Vs. Govt. of A.P. and others, AIR 1966 SC 828 and *Jagan Singh Vs. State Transport Appellate Tribunal, Rajasthan and another, AIR 1980 Rajasthan 1* to contend that an illegal order ought not to be permitted to stand, that does deter from the fact that the statute does not confer any power of review upon Mamlatdar. That apart, the order of the Mamlatdar makes a reference to Section 258 of the Maharashtra Land Revenue Code, 1966 (for short, “MLR Code”, hereinafter) while passing the order of review. The provisions of Section 258 of the MLR Code would not be available to the Mamlatdar as while functioning as a Mamlatdar, the Tahsildar functions and acts as such under the provisions of the Mamltadars’ Courts Act. It is also a matter of fact that the order, dated 21/04/2023 has already been subjected to a revision by the respondent no.1 and the plea about illegality of the same would always be tested by the Revisional Court in revision.

3. That being the position, the order dated 19/05/2023 is clearly without jurisdiction, in view of which, it is accordingly quashed and set aside. The writ petition is accordingly allowed. No order as to costs.

(AVINASH G. GHAROTE, J.)